

Code Administrator Meeting Summary

Meeting name: Workgroup Meeting 16

Date: 23/01/2024

Contact Details

Chair: Lurrentia Walker (Lurrentia.Walker@nationalgrideso.com)

Proposer: Paul Mott (Paul.Mott1@nationalgrideso.com)

Key areas of discussion

The Chair welcomed attendees, outlined the agenda for the meeting and suggested starting with the items for Workgroup discussion and reviewing the timeline after said discussions.

Workgroup discussions covering Actions 1 and 3:

Regional commonalities/differences in approaches to delay costs

It was reported back to the Workgroup that a meeting between the TOs (with the ESO present) was held on 11th January. It was explained that TOs were considering the differences and commonalities between their companies' price control arrangements and application of one-off costs and in order to feedback to the Workgroup by Meeting 17 on 19 February.

A TO and Workgroup member explained that the purpose of the TOs' meeting was to ensure that CMP288 sets the baseline for what's acceptable for delay charges by identifying the following for their respective companies:

- The circumstances for valid delay costs – TOs made it clear that valid charges will be identified and passed on consistently across companies even if methodology approaches to the charges differ (likely due to price control).
- What costs would constitute 'delay charges' on respective TOs' charging statements – with a view to providing transparency, and commonality where possible.
- How to communicate costs effectively, acknowledging that TOs should improve delivery of advance forecast data to avoid unexpected costs and harmonise best practice in this area.

It was clarified by a Workgroup member (also a TO representative) that TOs will work to avoid costs needing to be passed on, however there is a commitment from the TOs that, via CMP288's solution, unavoidable incremental costs are passed to the developer (the user) by the ESO which is supported by the data provided by the respective TO.

Workgroup members expressed the need for clarity in the modification's final reporting on the methodologies used by TOs in respect to delay charges in order to answer the Authority's

send-back questions. This would cover identifying why regional differences exist between TOs and provide transparency for developers who may be subject to the charges (and may have projects in different TO regions).

The Proposer suggested that TOs identify whether charges may be lower in certain areas (e.g., Scotland) if the TO is less incentivised to spend early on with new connection projects (incurring lower incremental costs that need to be charged on). It was expressed that any such explanation of a regional difference should feature in the Final Modification Report to address this point of difference.

Regional differences in reporting costs

A Workgroup member alternate suggested that TOs could manage their reporting or differences in their price control arrangements to provide users with more information on whether they would incur costs, and the Authority could consider accepting the same output from a Regulatory Reporting Plan (RRP) with the same/different price controls.

A Workgroup member alternate and Workgroup member discussed how the 'philosophy' of risk management in project accounting had a part to play in this process. One approach being for TOs to rely heavily on risks being identified in contract terms at the start of projects versus the approach for TOs and developers to engage in regular communication about possible charges. Linked to this is how the TO reports back on delays via its RRP and manages its regulatory incentives, which could be a source of regional differences. It was acknowledged that there would be limits to the transparency TOs could offer around the RRP, but that methodologies should be consistent, and clarity shared where possible.

It was clarified that there are two aspects of price controls that TOs are reviewing:

- What agreements TOs have struck with the Authority for price control arrangements which are generating differences between TOs methodologies. Company-specific differences will need to be outlined in CMP288 for transparency and wider understanding of how charges will be applied.
- How the TOs report costs through their RRPs to explain how works are funded and why some costs may not be charged on due to how they are reported.

ACTION (RW): consider inconsistencies between TOs on whether risk is managed early or regularly with developers and the role of the RRP.

Regarding cost recovery and reporting, a Workgroup member raised the issue of a user experiencing a distortion of competition if delay costs can be recovered via a user charge in one region but via other means in another (which may be due to how project are funded/reported). A later point by a TO and Workgroup member noted that how a project is funded may create project-specific differences for costs incurred by a delay and noted that complexities may hamper full transparency for this, but TOs should be as clear and upfront as possible.

Later in the Workgroup the Proposer shared suggested legal text featuring reference to regional differences in charges due to price controls. It was agreed that after the TOs report back at the next Workgroup on whether regional differences exist, the Proposer will

recommend whether this wording is required in the legal text or if inclusion of this topic in the FMR will suffice.

In relation to a legal text point detailing costs related to an 'Onshore Transmission Licensee's price control performance impacts...', it was suggested that this be altered/covered in the preceding text to explain possible regional differences in costs succinctly, and that these differences are agreed by the Authority.

ACTION (RW): to confirm that incremental costs only cover performance impacts (and not lost incentives).

Communication of costs

A Workgroup member alternate asked where responsibility lay for communicating unavoidable costs, which was confirmed to be the ESO (supported by information from TOs via the STC). A TO representative and Workgroup member noted that where a user wishes to delay, discussions between parties and the Final Sums approach from TOs should provide sufficient information for the ESO to act and inform users.

It was noted that if a user does not receive the information they require, they can follow the charging dispute route through the CUSC.

Process overview/Decision-tree

It was discussed that clearly stating the charging methodologies used and outlining the decisions made throughout this process would provide transparency and understanding for anyone new to the concept. These simple basics can then be used as the principles for any further legal text changes.

While users should be able to understand the consequences of a delay, and all parties should look to avoid incurring incremental costs where possible, it was acknowledged that TOs should advise on possible unavoidable financial impacts (requiring a clear methodology through CMP288). It was noted that a full cost profile cannot be provided until a Modification Application is raised by the user to formalise the delay request.

A Workgroup member alternate suggested that the solution allows for implementation of the solution by the ESO in a consistent and reliable way.

ACTION (RW): outline the process methodology/decision tree involved for key parties throughout this process for clarity.

Legal text changes

The Proposer shared suggested legal text changes for the Workgroup's input and adjustments were made for appropriate tenses to use in the document. The Workgroup and Proposer agreed to remove new suggested wording (expanding on costs being added 'for wider system benefit') as it was felt to be covered already. Discussions continued for whether other additions were needed. A Workgroup member suggested using terminology consistent with the charging statements, e.g., referencing 'cost deltas', to help explain what costs relate to (i.e., incremental cost changes because of a delay), and include a reference to the proposed solution helping to make the process faster.

It was suggested that the wording 'cannot [could not] have been reasonably avoided' be clarified in legal text relating to costs resulting from a delay.

A suggestion was made that the draft legal text referring to examples of delay/backfeed charges should focus on infrastructure assets (as the concept is not important for connection assets) and clearly relate to specific and evidenced costs caused by a user delay.

A Workgroup member suggested that reference to 'unforeseeable' delays should be reconsidered in the legal text, with a responsibility on the ESO (and consequently the TO) to provide hypothetical scenarios which inform the user.

ACTION (PM, RW, GW, AV, JD): review the process/decision methodology from RW as basis for updating the legal text.

ACTION (PM): Review points made on legal text and amend accordingly.

Anticipatory Investment (AI)

Language had been suggested to make anticipatory investment (i.e., for 'works for wider system benefit') exempt from delay charges. The Workgroup member representing the TOs noted that they would take this for consideration as if costs are incurred by a user delaying, those costs will need to be recovered. It was noted that while the principle was understandable, scenarios involving AI would be nuanced and rely on the user being a 'first comer' and triggering the price control.

ACTION (RW): Consider the inclusion/exclusion of AI into recoverable costs.

Multiple users

A Workgroup member suggested wording be gathered from previous Workgroup meetings to capture in the legal text that the methodology should not penalise the first user for delays to works being done for multiple users (if other users still need those assets building). A Workgroup member was unclear on whether the connections process would allow a 'second comer' to use available assets if a 'first comer' user delays, and whether later delays by later users would incur delay charges in kind. A Workgroup member responded that if a first and second user delay separately, they couldn't see how separate charges could be avoided. It was noted that delay charges are confidential and not communicated to other users.

ACTION (ESO): clarity on queue positioning changes if a user delays and the principles for charging multiple users for multiple delays.

A TO and Workgroup member noted that regardless of whether assets are to be shared later, a connection is needed to recover any costs. However, if users for shared assets have different connection milestones to each other due to their application dates this would impact how TOs could pass on delay charges, but that would be an issue for Connection Reform to address.

A Workgroup member alternate noted that it will be difficult for legal text to cover all scenarios where multiple users are involved as a TO may be able to justify continuing with a build if one user drops out. It was reiterated by a Workgroup member alternate that developers should be aware of how decisions are being made by TOs in order to understand how charges may arise/be applied (whether there are multiple users or not). A suggestion was made to feature within the legal text the intention for works to be completed by TOs if that is the most economic and efficient course of action.

ACTION (PM): Include reference to works completion if the most economic and efficient course of action.

Avoidance of double-counting charges

A Workgroup member alternate raised a possible concern about costs being able to be recovered directly from a user and indirectly from the price control (e.g., if allocated onto a different line on the RRP). A Workgroup member and TO representatives responded that while this risk exists TOs have safeguards against it via post-vesting charges (as categorised in the CUSC) to ring-fence charges and correctly categorise charges in the RRP as Direct Remunerated Services. It was noted that cost of delivery is agreed with the Authority up front and is subject to performance measures on delivery of works, so funding is clear to avoid 'surprise' costs appearing.

Materiality of charges

A Workgroup member reiterated the need for scales of potential charges for developers to create their financial risk profile for a project. This is captured in Action 3 from Workgroup 15 with suggestions that worked examples and indicative figures be published in the form of a guidance note and/or legal text.

A Workgroup member highlighted that some information relating to 'orders of magnitude' for costs may be submitted to the Authority privately due to confidentiality.

The Proposer explained the inclusion of legal text to allow users to request indicative charges prior to formally requesting a delay. The Workgroup agreed with the principle, but a Workgroup member alternate asked what timing obligations the ESO would/should work to for providing such indicative costs and what obligations should there be on TOs to support that with data (also, consequences for users if ESO cannot quote back within a timeframe). A Workgroup member questioned why an STCP was needed now but dismissed in the last Workgroup. The Proposer noted that a future STC change was suggested in the original Final Modification Report (FMR) and the ESO Connections Team would need to ensure the necessary data was supplied for ESO to meet its obligations if such quoting was codified in the CUSC. A TO observer noted that the response to cost requests will be determined by resource and sufficient time should be allowed as there is no indication of how many requests may need to be dealt with.

ACTION (PM): Meeting with TOs on indicative costings (incl. one-off/duration dependent costs) and a possible STC change for data needed.

A Workgroup member alternate questioned whether contractualization of costs or a cost ceiling would be appropriate for charges. TBC if ESO are to explore.

ACTION (Workgroup): Discuss how to visualise the solution to ensure sufficient detail and guidance for all parties.

Scope of application

As clarity has been sought by the Authority on how the solution is applied, the Proposer shared updates to the legal text (to support reference on pg.12 in the original FMR) to stipulate application of CMP288 for new delays submitted after implementation of CMP288. The Workgroup had no objections to the wording.

Other interactions

The Workgroup questioned whether Connections Reform timescales would likely influence CMP288.

It was noted that Connections Reform has been discussed in relation to Queue Management and possible reform timelines vs. CMP288.

ACTION (ESO): Consider industry reform pipelines for interactions with CMP288.

Timeline review

In consideration of the additional actions raised, it was agreed the Chair will review the timeline to add an additional Workgroup prior to Workgroup consultation.

ACTION (Chair): Review the timeline to add a Workgroup (consult WG on dates).

The Workgroup agreed that a Workgroup Consultation would be beneficial to the modification and agreed to review the Workgroup consultation when available to highlight any points not covered (for the send-back questions only).

A Workgroup member alternate highlighted the suggestion of a possible new CUSC modification raised at the recent TCMF with an impact on CMP288.

ACTION (ESO and TOs): Consideration of pending modification decisions on extending contestability and possible new mods.

AOB

A TO Workgroup member offered to direct queries from Workgroup members to contacts within their organisation.

The Authority representative agreed that discussions in the meeting were in-line with requirements of the send-back letter to their knowledge.

Next Steps

Workgroup to review the summary to capture necessary explanations discussed.

Timeline to be reviewed.

TO parties to continue reviewing their process to present back at the February Workgroup.

Actions to be reviewed and progressed by the necessary parties.

Actions

For the full action log, [click here](#).

Action number	Workgroup Raised	Owner	Action	Comment	Due by	Status
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1	WG15 (post send back)	RW	TOs to meet to categorise due & undue price control differences, align on one-off costs (and methodologies) and how cost magnitudes are communicated to the Authority and in the solution	Meeting held on 11 January 2024. Further clarification required on due & undue price control differences and costs.	WG16	Open
2	WG15 (post send back)	PM	Proposer to reflect on the WG conversations with ESO SME for changes to legal text	RW offered support	WG16	Open
3	WG15 (post send back)	RW	Liaise with ESO for information needed by the Authority re: cost order of magnitude	RW offered support	WG16	Open
4	WG15 (post send back)	RW	RW to share slides covering thoughts shared in WG1	To be circulated to the WG	08 Dec	Closed
	WG 16 (post send back)	RW	Consider inconsistencies between TOs on whether risk is managed early or regularly with developers and the role of the RRP		TBC	
	WG 16 (post send back)	RW	Consider the inclusion/exclusion of AI into recoverable costs		TBC	

Attendees

Name	Initial	Company	Role
Lurrentia Walker	LW	Code Administrator, ESO	Chair
Elana Byrne	EB	Code Administrator, ESO	Tech Sec
Paul Mott	PM	ESO	Proposer
Liam Cullen	LC	Ofgem	Authority Representative
Andy Vaudin	AV	EDF	Workgroup Member
Damian Clough	DC	SSE	Workgroup Member Alternate
Harriet Eckweiler	HE	SSE	Workgroup Member
Jack Counihan	JC	Orsted	Workgroup Member Alternate
Joseph Dunn	JD	Scottish Power Renewables	Workgroup Member Alternate

Paul Youngman	PY	Drax	Workgroup Member Alternate
Richard Woodward	RW	NGET	Workgroup Member
Robert Longden	RL	Cornwall Energy	Workgroup Member
Kav Patel	KP	ESO	Observer
Gareth Williams	GW	SP Energy Networks	Observer
Neil Bennett	NB	SSE	Observer
Ryan Ward	RW	Scottish Power Renewables	Observer