

Workgroup Consultation Response Proforma

CM094: Amendment to Bi-annual estimate provisions

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 stcteam@nationalgrideso.com by **5pm on 14 February 2024**. 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 stcteam@nationalgrideso.com

Respondent details		Please enter your details	
Respondent name:	Richard Woodward		
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Which best describes your organisation?	<input type="checkbox"/> Consumer body <input type="checkbox"/> Demand <input type="checkbox"/> Distribution Network Operator <input type="checkbox"/> Generator <input type="checkbox"/> Industry body <input type="checkbox"/> Interconnector	<input type="checkbox"/> Storage <input type="checkbox"/> Supplier <input type="checkbox"/> System Operator <input checked="" type="checkbox"/> Transmission Owner <input type="checkbox"/> Virtual Lead Party <input type="checkbox"/> Other	

I wish my response to be:

(Please mark the relevant box)

Non-Confidential (*this will be shared with industry and the Panel for further consideration*)

Confidential (*this will be disclosed to the Authority in full but, unless specified, will not be shared with the Workgroup, Panel or the industry for further consideration*)

For reference the Applicable STC Objectives are:

- a) *efficient discharge of the obligations imposed upon transmission licensees by transmission licences and the Act*
- b) *development, maintenance and operation of an efficient, economical and coordinated system of electricity transmission*
- 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*
- 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*
- e) *promotion of good industry practice and efficiency in the implementation and administration of the arrangements described in the STC.*
- f) *facilitation of access to the national electricity transmission system for generation not yet connected to the national electricity transmission system or distribution system;*
- g) *compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency.*

Please express your views in the right-hand side of the table below, including your rationale.

Standard Workgroup Consultation questions								
1	Do you believe that the Original Proposal better facilitate the Applicable Objectives?	Mark the Objectives which you believe the solution better facilitates:						
		<table border="1"> <tr> <td>Original</td> <td><input type="checkbox"/>A</td> <td><input type="checkbox"/>B</td> <td><input type="checkbox"/>C</td> <td><input type="checkbox"/>D</td> <td><input type="checkbox"/>E</td> <td><input checked="" type="checkbox"/>F</td> <td><input type="checkbox"/>G</td> </tr> </table>	Original	<input type="checkbox"/> A	<input type="checkbox"/> B	<input type="checkbox"/> C	<input type="checkbox"/> D	<input type="checkbox"/> E
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<p>We believe that the modification proposal might provide a route to ensure that, in specific circumstances, connection customers are not unduly exposed to the full extent of securing network investment costs where there is clear regulatory support for the works' needs case.</p> <p>This proposal therefore potentially better facilitates objective F. With further work – as noted later in this response – it may be that Applicable Objectives A and B could be better facilitated too.</p> <p>However, it is unclear to us how the current proposal will deliver more economic or efficient transmission connections more generally, or accelerate connections of low carbon generation, as suggested in the consultation.</p> <p>We are also wary of inherent risks associated with the proposal which could not only lead to significant cost impacts on the TOs but also end consumers. This is because the proposal is currently vague on:</p> <ul style="list-style-type: none"> i. <i>the levels of certainty the TOs can expect from the Authority that efficient costs can be recovered in advance of agreeing to waive costs from Final Sums Bi-annual Estimates.</i> ii. <i>the route to recover costs should customers terminate (there is currently no defined mechanism to recover these costs from allowances).</i> <p>Without appropriate mitigating safeguards, the proposal appears to change the balance of risk between TO, The Company, customers and consumers without this yet being fully understood or justified.</p> <p>Whilst we recognise this risk is different between projects that have a diverse set of needs, we note this is not the case for all projects where Ofgem can make 'needs case' decisions e.g. risk associated with a new substation for a small number of customers is different from an overhead line reinforcement identified through the Holistic Network Design process. Against this background, the proposal</p>								

		<p>needs to be much clearer on the investment categories that the waiver provision could apply to.</p> <p>We therefore believe the solution should be much more explicit on this - stating definitively when these costs will not be included in Bi-annual Estimates, rather than leaving it as a matter for the TO. This would also provide greater clarity to The Company and connections customers, whilst also ensuring consistency between regions and investment types.</p> <p>We have therefore highlighted how the proposed solution could be developed to mitigate these issues in our response to Q3. However, until the proposal adequately manages these aspects, we currently foresee potentially negative outcomes for TOs and end consumers in respect of Applicable Objectives A and B.</p>
2	Do you support the proposed implementation approach?	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Whilst the changes to the STC legal text could occur 'ASAP' following an approval decision, the provision itself can only be utilised at the commencement of the next Bi-annual Estimate update window onwards. It is important that this is understood by all relevant stakeholders.</p>
3	Do you have any other comments?	<p><u>Solution ambiguity</u></p> <p>We are wary that the proposal is contingent on implicit, rather than explicit, agreement from the Authority for the TOs to exclude costs from Bi-annual Estimates. We therefore believe that the proposal should define specific investment category exclusions within the STC without need for further regulatory approval.</p> <p>The CM094 proposal would therefore require further clarification to explicitly set out the parameters on which investment types can be subject to exclusion of costs from the Bi-annual Estimates (and by default those that will not).</p> <p>This would provide certainty in advance to all relevant parties and remove potential regional variation by permitted TOs to apply their own discretion. With an explicit list of types of investment exclusions being set out in the STC proposal, and if a relevant need case is subsequently approved by the Authority, no further consent or decisions would be required and the cost information provided to The Company adjusted automatically.</p>

		<p><u>CM094 timetable and wider interactions</u> Given the need, in our view, to further elaborate the CM094 solution as per our position above, we believe the workgroup timeline should be extended. This would allow sufficient time for the necessary discussions to take place, but also to align with the development of the proposals under CMP428.</p> <p>We believe, as the workgroup have stated, that there is some interaction with these two modifications. It would therefore make sense to ensure the two proposals are compatible before proceeding beyond the Code Admin Consultation. We would also recommend that the Code Administrator work with the respective proposers of these modifications to outline what is/isn't in scope for their proposals. This would help industry navigate the changes and no doubt support Ofgem's approval process.</p> <p><u>Impact assessment</u> We note that the workgroup consultation assesses the impact of the CM094 proposal as 'low' on the TOs. Given the STC is a networks-facing code, and the potential risk exposure on the TOs could be high if the solution remains as-is, we believe this assessment needs to be reconsidered.</p>
4	Do you wish to raise a Workgroup Consultation Alternative Request for the Workgroup to consider?	<p><input type="checkbox"/> Yes (the request form can be found in the Workgroup Consultation Section) <input type="checkbox"/> No</p> <p>We wish to discuss with the proposer and the workgroup the points we've raised in Q3, and whether these can be accommodated in the Original solution. Subject to the outcome of those conversations, we will consider whether a potential Alternative Request is needed.</p>

Specific Workgroup Consultation questions		
5	Do you agree that the Construction Approval should be based on the needs case approval rather than funding approval?	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>We believe that needs case is the key stage to trigger the exclusion of investment costs from Bi-annual Estimates - but only for more clearly STC defined exclusions of types/drivers of investment. Crucially though, we believe further work is necessary to consider if that is at the initial needs case or final needs case stage.</p> <p>We also believe the workgroup should consider whether there would be any impact on Ofgem's assessment of the strength of the needs case where customers have a reduced financial commitment applied via the CM094-led</p>

		<p>adjustment to Bi-annual Estimates, which could inadvertently undermine investment needs cases</p>
<p>6</p>	<p>Do you agree that it's non material when customers contract?</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Inherently the existing commercial arrangements for connections lead to first-comers often being subject to a different financial commitment exposure to that of subsequent applicants. However we believe this to be is context specific and often temporary.</p> <p>For example, where an overhead line is required for wider strategic needs and will be facilitating connection of Users in a wider region, the capacity provided will have benefits whether the relevant customers proceed or not.</p> <p>However, contract order could be material where the needs case relates to comparably high value works to deliver new/extended substations to facilitate a small number of new connections. In many cases, such works would be deemed Enabling Works which fall away if some or all customer projects do not proceed. We do not believe these types of works should be considered for the scope of the CM094 proposal</p> <p>Importantly, as already mentioned in Q3, we believe a fully exhaustive CM094 solution (i.e. where the criteria for cost exclusion from the Bi-annual Estimates is fully defined) will enable The Company and Users to understand the potential impacts on their projects. It would then be possible for first-comers to potentially foresee whether cost-exclusions might materially impact their securities to enable better project decisions.</p> <p>The only uncertainty would be when and if Ofgem issue the associated needs case decision to proceed (as per Q5), rather than the securities treatment.</p>
<p>7</p>	<p>Do you agree that the next security period is a reasonable time for the change?</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Any proposed changes to securities would need to occur in accordance with the existing securities information timelines and should not be retrospective.</p> <p>The next viable security period after any Ofgem direction to support an investment needs-case (and therefore approval to exclude costs from Bi-annual Estimates) would be an appropriate timing. The proposal to include</p>

		any changes to securities confirmed not less than 20 working days before the next securities information cycle from TO to The Company seems reasonable.
8	Is it clear that prior to Construction Approval (needs case) that customers will still need to provide securities for construction works?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No We believe this is clear, as the proposal changes the bi-annual cost information being provided by the TOs to The Company from the point of Authority direction onwards. It might be appropriate for the Authority’s determination (if the modification is approved) to provide additional direction to The Company to take necessary steps to apply the outcome of the CM094 changes via CUSC process, as well prompting them to issue relevant communications to industry to enable them to understand impacts on projects in development
9	Does the legal text satisfy the intent of the modification in improving the security process in a transparent way?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No As per our response to Q3, we do not believe the current proposed CM094 solution to be fully exhaustive to effectively drive Bi-annual Estimate cost exclusions in a transparent and consistent manner. Incorporating these aspects in the modification proposal will go a long way to provide Users and The Company full understanding of how the decision-making process for cost-waivers works, the timeline for such decisions to be made, plus reassurance of no undue regional differences. Additionally, as per Q8, whilst the CM094 proposal sets a direction for the TOs to adjust their Bi-annual Estimates (if the modification is approved), there is a burden of communication and transparency for The Company via CUSC arrangements. It will ultimately be their responsibility to apply any cost changes via the Securities methodology and to guide impacted customers accordingly.