

Second Final Modification Report

CM094 - Amendment to Bi- annual estimate provisions

Overview: This modification seeks to allow TOs not to pass on costs associated with ASTI, HND or LOTI funded Transmission Reinforcement Works that have received approval by the Authority under the price control mechanisms/under the Transmission Licence of the needs case for specific Transmission Construction Works which are not or are no longer dependent upon connection of any given party

Modification process & timetable



Have 5 minutes? Read our [Executive summary](#)

Have 60 minutes? Read the full [Second Final Modification Report](#)

Have 180 minutes? Read the full Second Final Modification Report and Annexes.

Status summary: On 19 April 2024, the [Authority sent back CM094](#) and directed that the Panel re-submit the Final Modification Report (FMR). This report has been re-submitted to the Authority for them to decide whether this change should happen.

Panel recommendation: The Panel has recommended unanimously that the Proposer's solution is implemented.

This modification is expected to have a: **High impact:** Generators, Demand Users.
Low: Transmission Owners

Governance route Urgent modification to proceed under a timetable agreed by the Authority

Who can I talk to about the change?
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Executive summary

The requirement for securities when network infrastructure already has Authority approval is negatively impacting the connection of viable low carbon generation. This modification allows Transmission Owners (TOs), not to pass on costs associated with ASTI, HND or LOTI funded Transmission Reinforcement Works that have received approval by the Authority under the price control mechanisms/under the Transmission Licence of the needs case for specific Transmission Construction Works which are not or are no longer dependent upon connection of any given party.

What is the issue?

Securities associated with large strategic Transmission Reinforcement Works are acting as a barrier to Users, who are often required to place substantial securities against early termination of their contracts.

What is the solution and when will it come into effect?

Proposer's solution: Where the Authority¹ has approved the need for strategic Transmission Reinforcement Works via the price control framework, then Customers should no longer securitise for those specific works. Customers securities would only be released post the reinforcement needs case being approved by the Authority. Customers will continue to secure up to this point and will still be required to securitise against any connection assets, sole use works, any shared Enabling Works, as well as any wider work securities that are not approved by the Authority.

Implementation date: ASAP

Workgroup conclusions: The Workgroup concluded unanimously that the Original better facilitated the Applicable Objectives than the Baseline.

Panel recommendation: The Panel has recommended unanimously that the Proposer's solution is implemented.

What is the impact if this change is made?

It is expected to have a high impact on Generators and Demand Users as the value of securities that will be required to be provided by these Users could be significantly reduced.

It is expected to have a low impact to TOs based on procedural changes to Bi-annual Estimate submission, but without the implementation of wider Connection Reform there could be efficiency impacts from the reduction to barriers to entry.

Interactions

The Workgroup believes there is interaction between [CMP428: User Commitment liabilities for Onshore Transmission circuits in the Holistic Network Design](#) and CM094.

¹ The Authority referred to within this document is Ofgem, the Office of Gas and Electricity Markets

What is the issue?

The Proposer has received feedback from a range of their Customers; generation and demand, transmission and distribution connected; that the current securities regime is acting as a barrier due to the high costs of securing these works. One recurring issue is that securities associated with large strategic Transmission Reinforcement Works are acting as a barrier to Users, who are often required to place substantial securities against early termination of their contracts.

This is deemed by the Proposer to be inappropriate in circumstances where Authority approval of the network need has been granted.

Using only SSEN T2 LOTI projects as an example up to 33.5GW of renewable generation, across over 80 Customers, would see a benefit in reduced securities. The impact on individual Customers will vary however across all Customers this would result in an overall reduction in securities of c.£3bn.

Why change?

By acting now to address the issue, it will:

- minimise further delay to construction works for Authority approved investments, ensuring supply chain can be locked in in a timely manner.
- facilitate the creation of significant socioeconomic benefit to communities.
- help meet net zero targets of both the Scottish and UK Governments by enabling additional renewable development and unlocking the potential for future development of marine energy technologies.
- progressing with reform now will ensure that the securities regime is fit for purpose to support timely connection to projects associated with Accelerated Strategic Transmission Investment (ASTI) and future Centralised Strategic Network Plan (CSNP) works and any other works which are approved by the Authority

What is the solution?

Proposer's solution

To accelerate the connection of viable Customer connections, the proposal makes changes to Section 9 and Section J of the STC that will allow TOs not to pass on costs associated with strategic Transmission Reinforcement Works that have received Authority approval. In these instances, the TO will also not recover these costs on termination of the TO Construction Agreement through the ESO.

Where the Authority has approved the need for strategic Transmission Reinforcement Works via the price control framework, then Customers should no longer securitise for those specific works. The Proposal refers to this approval as a:

“Construction Approval”² the approval by the Authority pursuant to a Transmission Licence of the initial needs case, or in the absence of an initial needs case the final needs case, for specific Transmission Construction Works;

² For simplicity this proposed new defined term will be used throughout the Workgroup Consultation

The costs which will no longer be included in the Bi-annual Estimate has been defined as:

“Excludable Costs” cumulative actual and forecast cost of Transmission Construction Works which have Construction Approval and which are;

- i) subject to approval by the Authority under the Accelerated Strategic Transmission Investment, Holistic Network Design or Large Onshore funding mechanism[s] as such terms are defined in the relevant Transmission Licensee’s Licence, and
- ii) limited exclusively to Transmission Construction Works upon Transmission circuits and any substation works required for the connecting of such Transmission circuits;

Customers securities would only be released in the next Security Period, where the Construction Approval has been received no less than 20 Business Days before the TO submits the next Bi-annual Estimate to the ESO.

Customers will continue to secure up to this point and will still be required to securitise against any connection assets, sole use works, any shared Enabling Works, as well as any wider work securities that are not approved by the Authority.

Workgroup considerations

The Workgroup convened 5 times to discuss the perceived issue, detail the scope of the proposed defect, devise potential solutions, and assess the proposal in terms of the Applicable Code Objectives.

Consideration of the Proposer’s solution

Below captures the key discussion points of the two Workgroup meetings prior to the Workgroup Consultation.

Which Works are Captured under ‘Construction Approval’

The Proposer confirmed that the modification does not differentiate on size of reinforcement it is only where a needs case has been approved by the Authority and there are no dependencies on any conditions, excluding the highly unlikely event of a significant change to the needs case.

When initially considering the type of approval required by the Authority, the Workgroup discussed whether funding was appropriate and the differences between pre-construction and construction funding. However, the Workgroup agreed the Construction Approval definition should be based on the needs case approval would be more beneficial as it is earlier in the process than funding approval, whilst still being low risk to the TO.

Explanation of Securities

The purpose of securities is that if a developer terminates their connection offer or reduces capacity, then that security will be used to cover any aborted costs spent to date on facilitating their connection by the TO. This protects consumers and TOs from having to cover the cost.

The Workgroup agreed that Customers should securitise to protect consumers and TOs. However, at the point where the Authority has approved the need for reinforcement

works then the risk of construction not proceeding is greatly reduced. It is highly unlikely that a Customer's cancelled connection would stop the reinforcement proceeding.

The Proposer's solution means that where the Authority has approved the need for strategic transmission reinforcement works via the price control framework, Customers should no longer securitise for those specific works. In these instances, the TO also waives the right to recover these costs on termination of the TO Construction Agreement.

Customers securities would only be released at the point that the reinforcement is approved by the Authority. Customers will continue to secure up to this point and will still be required to securitise against any connection assets, sole use works, any shared Enabling Works as well as any wider work securities that are not approved by the Authority.

The Workgroup discussed whether there would be any advantages or disadvantages to a Customer based on when they contracted because of the CM094 proposed changes to the STC.

Where works have not been approved by the Authority any Customers contracted at those early stages would need to securitise the works. Customers who contracted after the Construction Approval would not have to securitise against the same works.

The estimated amounts required by the Customer to secure prior to Construction Approval would be relatively low because of the TO's economic and efficient spend ahead of the needs case being met. As the securities for the specific works would no longer be required by existing Customers post Construction Approval, alongside the advantages gained by being higher in the queue the Workgroup deemed the order in which Customers were contracted to be not material.

Final Sums versus Attributable Works

For Final Sums the TO provides all the reinforcement works that are, or will be, under construction and their associated costs that have been incurred so far. Construction Works may be Attributable Works to some Customers but not others.

The Workgroup considered whether the definition of Attributable Works needed to be amended. Whilst the Attributable Works definition is not proposed to be changed, the estimate of Attributable Works Capital Cost within the provisions of Attributable Works by the TO (Section 9 within Annex 1) proposes to exclude any Attributable Works that have received a Construction Approval.

A Workgroup member proposed that for there to be consistency across all types of works, Wider Works securities should also be included within the solution. Larger strategic schemes would be more likely to have the majority of investment upstream of the existing MITS Nodes, with such works being Non-Attributable Works and otherwise uplifting the Wider Cancellation Charge.

As a result, the Workgroup reviewed the Wider Cancellation Charge Information definition and agreed the proposed changes to ensure that securities could be removed for Wider Works that have received Construction Approval (Section J within Annex 1).

Mitigating the Risk to Consumers

The Proposer believes that the risk to consumers is minimal. Customers will still be required to securitise against any connection assets, sole use works, any shared Enabling Works, and wider work securities and will continue to securitise against large transmission reinforcement works until the next security period, where reasonable, after Construction Approval has been received. Up until this point, costs spent on the reinforcement works will likely only be pre-construction development spend. On the receipt of the Construction Approval for reinforcements it is extremely unlikely that TOs will not progress with the specified construction works.

The Workgroup agreed that this strikes an appropriate balance between ensuring that developers are liable should they cancel their project whilst reducing the overall scale of those securities to ensure that reinforcements do not pose a barrier to connections proceeding.

Notifications to ESO post Construction Approval

Ahead of Workgroup discussion the Proposer had received feedback that notifying the Authority prior to the TO waiving their right to include costs in the relevant works would be required. An Authority Representative stated that there was no clear need for a notification to be sent to them, however they did see the need for a notification from the TO to the ESO.

It was agreed that 20 Business Days (as defined in the STC) would allow sufficient time for checks on expenditure and liaising with the ESO.

Interactions with Ongoing Connection Reform and Other Modifications

The Proposer attended the Connections Process Advisory Group (CPAG) in advance of raising the modification as they believe securities reform should be a key priority within the Connections Action Plan (CAP).

There was general support for the modification, and considering the newly introduced reforms which will improve certainty of Customer progression, the modification would facilitate timely connection of viable renewables projects by reducing the overall financial burden on Customers. The Workgroup discussed interactions with CUSC modifications specifically referenced in the Workgroup Terms of Reference (Annex 3).

The Workgroup agreed that there was no interaction with [CMP417: Extending principles of CUSC Section 15 to all Users](#) and [CM093: Extending the principles of the User Commitment Methodology to Final Sums Methodology as a consequence of CUSC Modification – CMP417](#) as CM094 would impact both generation and demand Customers regardless of the CUSC methodology that is used for securities which these modifications are seeking to resolve.

The Workgroup agreed that there is interaction with [CMP428: User Commitment liabilities for Onshore Transmission circuits in the Holistic Network Design](#).

Both modifications defects focus on removing security provisions where the Authority has approved works but at different points in the process.

[CMP428](#) looks to ensure that there is no liability/security for transmission works classified as onshore reinforcement under HND once they have been classified by the Authority. CM094 looks to ensure that securities are removed after the Authority has approved a needs case (i.e., a Construction Approval) for any onshore reinforcement.

The Workgroup were supportive of the Authority's request for the timelines to coincide so that they can decide on both modifications at the same time.

The Workgroup does not believe that CM094 impacts any other industry codes or modifications, to ensure Generator and demand Users feedback is captured all future industry communication on the modification will be shared with the CUSC and Grid Code mailing lists held by the ESO Code Administrator.

Consideration of other options

The Proposer detailed that ahead of raising the modification they had considered several other options including proposing a CUSC modification. They opted for a STC modification as a pragmatic solution that could see changes implemented within months, due to not altering any of the CUSC charging methodologies which would be a more complex modification to deliver.

Workgroup Consultation Summary

The Workgroup held their Workgroup Consultation between 09 February 2024 and 14 February 2024 and received 11 responses. The full responses and a summary of the responses can be found in Annex 5.

Key findings are summarised below:

- 11 Respondents comprised of 6 Generators, 3 Transmission Owners, 1 System Operator and 1 Other.
- 10 Respondents believed that CM094 better facilitated 1 or more the STC Applicable Objectives.
- 9 Respondents were supportive of the implementation approach.
 - o Concerns raised by those who were not supportive were around the cross-code impacts and felt that the issue would be better resolved within a CUSC methodology change.
- 10 Respondents agreed that the Construction Approval should be based on the needs case approval rather than funding approval.
 - o The remaining Respondent stated that they had no view at this stage.
- 8 Respondents agreed that it was non material when Customers contract.
 - o Concerns raised by those who did not agree were around Customers needing to have liabilities being made clear from pre-application to Completion Date; the solution needing to be clear on which costs will be excluded from the Bi-Annual Estimates; and a Respondent not having enough information to form a view.
- 9 Respondents agreed that the next security period is a reasonable time for the change.
 - o Those who did not agree felt that the legal text could be clearer, and a Respondent would only support if the benefit applied to all Customers at the same time.
- 10 Respondents agreed that it was clear that prior to Construction Approval (needs case) that Customers still needed to provide securities for construction works.
 - o The remaining respondent stated that they had no view at this stage.
- 8 Respondents agreed that the legal text satisfied the intent of the modification in improving the security process in a transparent way (however 2 of the respondents did state that they had not completed a full legal text review).

- Concerns raised by those who did not agree were around ambiguity around whether it was the initial or final needs cases and what was meant by TOs ‘waives its rights’ within the new Section 9; that there should be a definition of what works would be excluded in a Construction Approval; and reiteration that the change should be part of a CUSC modification.

Post Workgroup Consultation Discussions

At Workgroup meetings 3, 4 and 5, the Workgroup reviewed and discussed the consultation responses to address issues that had been raised.

Ambiguity within the Legal Text

Based on requests the Workgroup updated the legal text to provide clarity:

Needs Case Approval

The Construction Approval definition is based on the needs case for specific Transmission Construction Works which are not or are no longer dependent upon connection of any given party. Following the Workgroup Consultation this has been updated to confirm that it is the initial needs case, or in the absence of an initial needs case the final needs case, which is required.

The Workgroup agreed on initial needs case as this is the point when, although final overall cost of the works have not been approved, certainty over the requirements of the project have been approved by the Authority and therefore initial costs at that point will be funded. Overall cost for the works will be approved at a later stage and were the final needs case not approved the TO would be able to recover additional costs through TNUoS.

Transmission Construction Work Costs removed post Construction Approval

To address the concerns that there was a lack of clarity around which costs would be excluded on receipt of the Construction Approval a new definition of Excludable Costs was introduced which references the specific cumulative actual and forecast costs.

The below diagram demonstrates how this would work in practice.

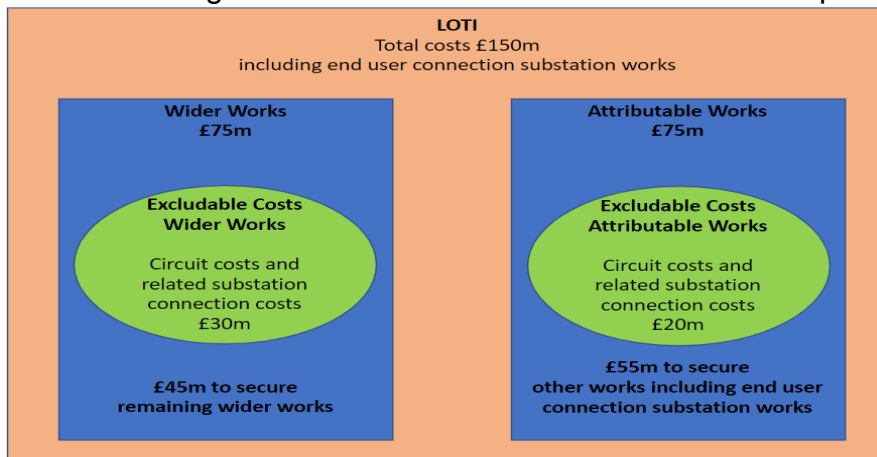


Figure 1. Worked example of Excludable Costs

Obligations and timescales after receipt of the Construction Approval

The legal text was updated to direct that the TO will remove the Excludable Costs following the receipt of the Construction Approval.

The Workgroup had previously discussed and agreed the 20 Business Day period would allow for the TO to remove the Excludable Costs from the Bi-annual Estimate ahead of submitting the Bi-annual Estimate to the ESO. The Workgroup reworded the legal text to add clarity.

To support the understanding of when this would come into effect post implementation, the table below³ shows the last day a Construction Approval would need to be received by the TO (A) for the Excludable Costs to be removed from the next security period (C).

The TO receives the initial needs case approval, or in the absence of an initial needs case the final needs case, which constitutes a Construction Approval (A), they remove the Excludable Costs from the Bi-annual Estimate and provide it to the ESO (B), the submitted Bi-annual Estimate is effective between the TO and the ESO (C), the next day the Security Period is effective between the ESO and the User (D).

A) Construction Approval received by the TO and notified to the ESO	B) Provision of the Bi-annual Estimate from the TO to ESO	C) Bi-annual Estimate Effective Date	D) Security Period Effective From
A is no less than 20 Business Days before B	B no less than 82 days before C	Repeated annually	Day after C
07/12/2023	09/01/2024	31/03/2024	01/04/2024
12/06/2024	10/07/2024	30/09/2024	01/10/2024

Table 1: Construction Approval timelines

Interaction with the CUSC Methodologies

Several Respondents called out concerns that the proposed changes to the STC should be accompanied or replaced by CUSC Modifications.

As acknowledged by the Respondents the STC defines the relationship between the TO and the ESO. This includes provision of liabilities by the TO to the ESO for the ESO to calculate its cancellation charges and securities.

The CUSC is the contractual framework for connecting to and using the National Electricity Transmission System (NETS) between the ESO and Users. With CUSC Section 15 – User Commitment Methodology sets out the framework for cancellation charges and securities for Generators.

The Workgroup acknowledged that there could be ways of achieving a similar result via the CUSC, however all those changes would still require a STC change. The Workgroup agreed that as it is the TOs liabilities which are proposed to be changed as part of this modification there was no requirement to change the Charging Methodologies in CUSC, nor any need to change definitions.

The Workgroup walked through the current and proposed process to ensure that there would be no unintended consequences. The diagram shows the current process (in grey)

³ There are additional stages taken by the ESO and the User between B and D which are captured under the CUSC.

and the proposed changes (in red), which confirmed that no CUSC change was required to enact the solution as the Excludable Costs are removed ahead of the Bi-annual Estimate being sent from the TO to the ESO.

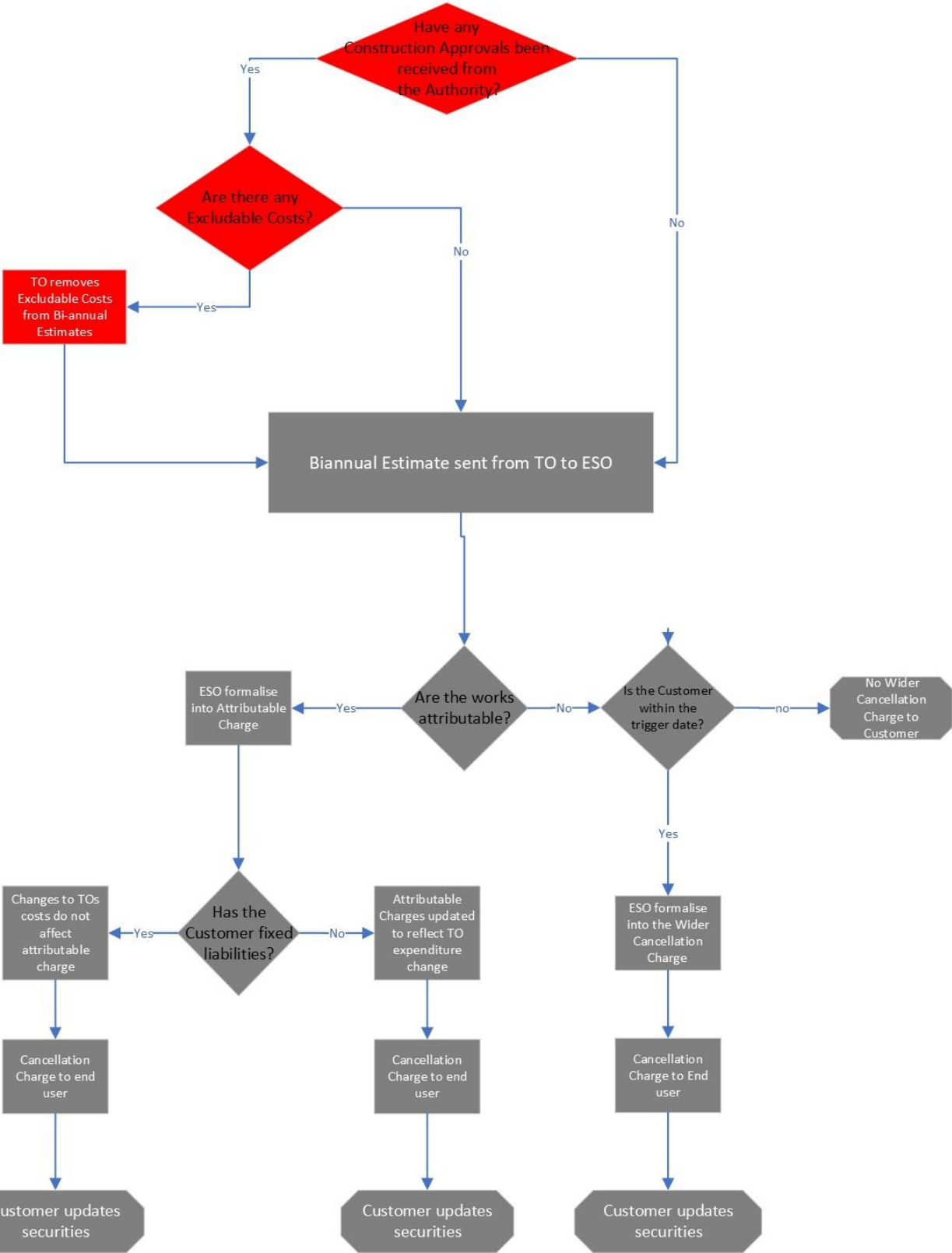


Figure 2: Bi-annual Estimate through to Customer Securities Process Flow

Fixed Liabilities and Contracting

It was confirmed that as of 23 February 2024 there were 257 Customers with Fixed securities that could potentially be impacted by this modification⁴.

The ESO Representative confirmed that within CUSC Section 15.6.2 it prevents a User who has elected for Fixed Cancellation Charges to revert to an Actual Attributable Works Cancellation Charge. The Workgroup saw the potential merit in a one-off recalculation for existing Fixed Liabilities, to be conducted in a similar way as the previous [Transmission Entry Capacity \(TEC\) amnesty](#), however due to when the fixed liabilities were set there is no guarantee that moving to variable would be in the best commercial interest of the Customer as other costs may have increased (overhead line costs, transformer cost, etc.).

The Workgroup agreed that there should be no market distortion because of the modification as if approved, excluding those on fixed liability, it would be applicable to all Customers who would need to be able to make an informed decision around whether they wanted to go fixed or variable based on commercial decisions.

The Workgroup reaffirmed its position that there should be minimal impact dependent on when a Customer contracted as under the current arrangements the later a Customer contracts the less likely they are to be advanced as there are others earlier in the queue.

Communication of Change

The Workgroup discussed that were the modification approved it was likely that the TOs CRM teams would receive a lot of queries from Customers. To ensure that there was consistent messaging the ESO confirmed they would work with the TOs to produce guidance on the ESO website or messaging (Newsletters, webinars) to facilitate the change.

Potential Impacts on Authority Initial Needs Case

There was not further support for the concerns raised by the Workgroup Member whose organisation had raised the concern that there could be a risk that where Customers have a reduced financial commitment applied via the removal of Excludable Costs in the Bi-annual Estimates this could inadvertently undermine investment needs cases.

As put to the Workgroup there is the potential that, by removing large costs of liabilities this may lead to this having an impact on the commercial decision on where Customers may wish to connect their project, given that the exclusion of costs is binary depending on whether an investment breaches the level requiring needs case approval it was highlighted that Customers would still require to securitise against their TCA and sole use works as well as other wider works liabilities and reinforcements that are attributable but not covered by Construction Approval and would therefore still be securing a reasonable level. The Workgroup consider this strikes an appropriate balance between ensuring that developers are liable should they cancel their project whilst reducing the overall scale of those securities to ensure that reinforcements do not pose a barrier to connections proceeding.

Subsequent Modifications

The Workgroup agreed that other parties might wish to raise modifications in the future, but they were comfortable that the solution addressed the urgent defect.

⁴ The data when anonymised provided very little value, therefore it has been shared only with the Authority.

Legal text

The legal text for this change can be found in Annex 1.

What is the impact of this change?

The impact of the change would be across the onshore GB transmission network so the national reduction would be well in excess of the £3bn referenced within the 'What is the Issue?' section at earlier in the document.

Proposer's assessment against Code Objectives

Proposer's assessment against STC Objectives	
Relevant Objective	Identified impact
(a) efficient discharge of the obligations imposed upon transmission licensees by Transmission Licences and the Act	Neutral
(b) development, maintenance, and operation of an efficient, economical, and coordinated system of electricity transmission	Neutral
(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	Neutral
(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	Neutral
(e) promotion of good industry practice and efficiency in the implementation and administration of the arrangements described in the STC	Neutral
(f) facilitation of access to the national electricity transmission system for generation not yet connected to the national electricity transmission system or distribution system;	Positive It is likely that an increasing number of Customer connections will be realised by reducing the number of unnecessary securities required by Generators/demand Customers.
(g) compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency.	Neutral

Proposer's assessment of the impact of the modification on the stakeholder / consumer benefit categories

Stakeholder / consumer benefit categories	Identified impact
Improved safety and reliability of the system	Neutral

Lower bills than would otherwise be the case	<p>Positive</p> <ul style="list-style-type: none"> Facilitate the creation of significant socioeconomic benefit to communities. For example, benefit to the Orkney and Scottish economies, through enabling community-owned wind farm developments and utilising both local Orcadian and Scottish supply chain content. Currently there is a HVDC link proposed that is high cost and thus high securities to the Customers there. Removing this cost removes barriers to connecting these Customers which provides the socioeconomic benefits. Help meet net zero targets of both the Scottish and UK government by enabling additional renewable development. Progressing with reform now will ensure that the securities regime is fit for purpose to support timely connection to projects associated with ASTI and future CSNP works
Benefits for society as a whole	Neutral
Reduced environmental damage	Neutral
Improved quality of service	Neutral

Workgroup vote

The Workgroup met on 07 March 2024 to carry out their workgroup vote. The full Workgroup vote can be found in Annex 6. The table below provides a summary of the Workgroup members view on the best option to implement this change.

The Applicable STC Objectives are:

- efficient discharge of the obligations imposed upon transmission licensees by Transmission Licences and the Act
- development, maintenance, and operation of an efficient, economical, and coordinated system of electricity transmission
- facilitating effective competition in the generation and supply of electricity, and (so far as consistent therewith) facilitating such competition in the distribution of electricity
- 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
- promotion of good industry practice and efficiency in the implementation and administration of the arrangements described in the STC.
- facilitation of access to the national electricity transmission system for generation not yet connected to the national electricity transmission system or distribution system;
- compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency.

The Workgroup concluded unanimously that the Original better facilitated the Applicable Objectives than the Baseline.

Option	Number of voters that voted this option as better than the Baseline
Original	4

Workgroup Member	Company	Industry Sector	Best Option	Which objective(s) does the change better facilitate?
Neil Bennett	Scottish and Southern Electricity Networks Transmission	Transmission Owner	Original	f
David Halford	ESO	System Operator	Original	c and f
Matthew Paige-Stimson	National Grid Electricity Transmission	Transmission Owner	Original	c and f
Gareth Williams	Scottish Power Transmission	Transmission Owner	Original	f

Code Administrator Consultation Summary

The Code Administrator Consultation was issued on the 15 March 2024, closed on 20 March 2024, and received 8 non confidential responses including 0 late responses. A summary of the responses can be found in the table below, and the full responses can be found in Annex 9.

Code Administrator Consultation Summary	
Question	
Do you believe that the Original Proposal better facilitates the STC Applicable Objectives?	<p>7 of the 8 Respondents who believed the Original better facilitated one or more of the STC Applicable Objectives:</p> <ul style="list-style-type: none"> - 7 stated that CM094 better facilitated Applicable Objective f - 5 stated that CM094 better facilitated Applicable Objective c - 2 stated that CM094 better facilitated Applicable Objective b - 1 stated that CM094 better facilitated Applicable Objective a <p>1 of the above Respondents stated that CM094 was deficient against Applicable Objective b</p> <p>The Respondent who did not believe the Original better facilitated one or more of the STC Applicable Objectives stated that it was deficient against Applicable Objective c and in the context</p>

	of a specific works potentially deficient against Applicable Objective f.
Do you support the proposed implementation approach?	6 of the 8 Respondents supported the implementation approach. 1 Respondent did not support the implementation approach 1 Respondent chose not to provide an assessment against the implementation approach
Do you have any other comments?	Several Respondents stated that there should be appropriate guidance for all stakeholders to be fully informed of the process, inclusions and exclusions. In particular, it would be important that the guidance is clear on those mechanisms for which this change will be applicable, and that this guidance is updated regularly where existing funding mechanisms change. Several Respondents stated that any decision or changes from CM094 must take cognisance of and appropriately align with CMP428. 2 Respondents raised concerns that the interaction with the CUSC had not been fully resolved; 1 felt that the modification was unduly discriminatory due to whether a User has opted for Final Sums and excludes those who have opted for 'Fixing' as these decisions were made in good faith and based on the information that have access to at the time; and 1 felt that due to the 'blunt' nature of the solution there could be unintended consequences.
Legal text issues raised in the consultation	
No issues were raised in the consultation	

Authority Decision to send – back CM094

Why did Ofgem send-back CM094?

On 19 April 2024, Ofgem sent back CM094 and noted the following:

- **Deficiencies of Final Modification Report**

- The wording of the legal text provided with the first Final Modification Report includes terminology that lacks accepted definition, limiting the Authority's ability to properly form an opinion on the Proposal.
- As there is no reference to "Major Project Regime" in current iterations of the Transmission Licenses. The drafting of the legal text is reliant on future Authority decisions, including: i) the concept of "Major Project Regime" being approved by the Authority (using that nomenclature); and ii) the inclusion of a suitable definition of "Major Project Regime" within the relevant

- Transmission License (the codes should not necessitate specific terminology, or definitions be adopted in a License).
- Therefore the use of proposed term carries no meaning and risks introducing legal ambiguity.
- **Ofgem’s Expectations**
 - The Authority directed that further work be undertaken to address the deficiencies (as identified in bold and italicised below) within the legal text.
 - “Excludable Costs”: cumulative actual and forecast cost of Transmission Construction Works which have Construction Approval and which are:
 - i) subject to approval by the Authority under the Accelerated Strategic Transmission Investment, ***Major Project Regime***, Holistic Network Design or Large Onshore Transmission Investment funding mechanism(s) as such terms are/will be defined in the relevant Transmission Licensee’s Licence and
 - ii) limited exclusively to Transmission Construction Works upon Transmission circuits and any substation works required for the connecting of such Transmission circuits.

What approach was agreed at STC Panel to address this?

The STC Panel on 24 April 2024 agreed next steps following the send-back on 19 April 2024:

- They noted that Ofgem asked for the Final Modification Report and legal text to be revised and resubmitted within 3 working days of the send back letter;
- They agreed that the proposed legal text in Section J should be updated to remove the terms which have not yet been defined in the relevant Transmission Licences;
- They agreed that this did not need to be assessed further by a Workgroup;
- They agreed that a Code Administrator Consultation was not needed to be run before it was re-presented to Panel; and
- They agreed that a second Recommendation Vote was not needed ahead of submitting the second Final Modification Report and legal text

Panel Recommendation Vote

The Panel met on the 27 March 2024 to carry out their recommendation vote, they reconfirmed their vote on **24 April 2024** ahead of submitting the second Final Modification Report.

They assessed whether a change should be made to the STC by assessing the proposed change and any alternatives against the Applicable Objectives.

Vote 1: Does the Original facilitate the objectives better than the Baseline?

Panel Member: **Terry Baldwin, ESO**

Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Better facilitates AO (f)?	Better facilitates AO (g)?	Overall (Y/N)
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Original	Neutral	Neutral	Yes	Neutral	Neutral	Yes	Neutral	Yes
Voting Statement								
<p>We believe that the Original Modification Proposal will support effective competition and assist with the ability for Generators to access the electricity system by potentially lowering the securities for projects which may have not been viable and seen as a barrier to entry under the current process. During the Workgroup phase, conversations took place between Workgroup members in relation to ensuring that there is clear and consistent messaging for customers in relation to communicating any changes to the current process should this modification be approved by the Authority. The ESO will work with the TOs to agree the contents of any communications and the most appropriate methods for communicating these changes to customers.</p>								

Panel Member: **Neil Bennett, SHET**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Better facilitates AO (f)?	Better facilitates AO (g)?	Overall (Y/N)
Original	Neutral	Neutral	Neutral	Neutral	Neutral	Yes	Neutral	Yes
Voting Statement								
No statement provided								

Panel Member: **Gareth Williams, SPT**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Better facilitates AO (f)?	Better facilitates AO (g)?	Overall (Y/N)
Original	Neutral	Neutral	Neutral	Neutral	Neutral	Yes	Neutral	Yes
Voting Statement								
<p>We agree with the proposer’s assertion that an increasing number of customer connections will be realised by reducing the number of unnecessary securities required by Generators/demand customers. We are also in agreement with the proposer that securities associated with large strategic Transmission Reinforcement Works are acting as a barrier to users, in terms of the scale of securities required should users terminate early from their contracts.</p> <p>Approval of the change is predilected on appropriate guidance being drafted for all stakeholders to be fully informed of the process, inclusions and exclusions. In particular, it will be important that the guidance is clear on those mechanisms for which this change will be applicable, and that this guidance is updated regularly where existing funding mechanisms change.</p> <p>Should this proposal be approved in its original form, it is likely to have a positive impact on a number of customers who are currently securitising against strategic reinforcements works, where Ofgem is confident that the network need has been met.</p>								

Panel Member: **Mike Lee, OFTO**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Better facilitates AO (f)?	Better facilitates AO (g)?	Overall (Y/N)
Original	Neutral	Neutral	Neutral	Neutral	Neutral	Yes	Neutral	Yes
Voting Statement								
The securities for such projects significantly impact small generators making their projects unviable. Given Ofgem have given approval for the strategic works to proceed (irrespective of the status of any User's connection), avoiding Users to posting securities will better facilitate the connection of new generation projects. There is a precedent for such treatment from earlier strategic works e.g. TIRG, Beaulieu-Denny								

Panel Member: **Richard Woodward, NGET**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Better facilitates AO (f)?	Better facilitates AO (g)?	Overall (Y/N)
Original	Neutral	Neutral	Neutral	Neutral	Neutral	Yes	Neutral	Yes
Voting Statement								
<p>The proposal provides a stronger prompt for the Onshore TOs to consider the impacts of including certain investment costs in their bi-annual forecasts to ESO. In this respect, CM094 is a moderate improvement on the baseline. However, the full benefit of this change can only be realised in conjunction with the ESO's successful administration of associated CUSC processes.</p> <p>If the modification is approved, we recommend that a robust coordination process should be pro-actively agreed and documented between the Onshore TOs and the Authority regarding needs case approvals (in the context of CMP094). Additionally, we would like to see communications swiftly published by ESO post-implementation to support Users understanding the potential impact of this change on their current and future projects. The ESO should advise the Onshore TOs as soon as possible whether their support is needed in this regard.</p>								

Vote 2 – Which option is the best?

Panel Member	Best Option?	Which objectives does this option better facilitate?
Terry Baldwin	Original	C, F
Neil Bennett	Original	F
Gareth Williams	Original	F
Mike Lee	Original	F
Richard Woodward	Original	F

Panel conclusion

Panel has recommended unanimously that the Proposer's solution is implemented.

When will this change take place?

Implementation date

ASAP and applicable to existing works with 'Construction Approval'

Date decision required by

ASAP

Implementation approach

There are not believed to be any additional system requirements from the proposed changes.

Interactions

- | | | | |
|--|--|---|--------------------------------|
| <input type="checkbox"/> Grid Code | <input type="checkbox"/> BSC | <input type="checkbox"/> CUSC | <input type="checkbox"/> SQSS |
| <input type="checkbox"/> European
Network Codes | <input type="checkbox"/> EBR Article 18
T&Cs ⁵ | <input type="checkbox"/> Other
modifications | <input type="checkbox"/> Other |

Whilst the Workgroup have agreed there are interactions with CMP428, CM094 is progressing independently.

Acronyms, key terms, and reference material

Acronym / key term	Meaning
ASTI	Accelerated Strategic Transmission Investment
BSC	Balancing and Settlement Code
CAP	Connections Action Plan
CM	Code Modification
CPAG	Connections Process Advisory Group
CSNP	Centralised Strategic Network Plan
CUSC	Connection and Use of System Code
ESO	Electricity System Operator
HND	Holistic Network Design
LOTI	Large Onshore Transmission Investment
SQSS	Security and Quality of Supply Standards
SSEN	Scottish and Southern Electricity Networks Transmission
STC	System Operator Transmission Owner Code
T2	RiIO-T2 period
TO	Transmission Owners
TORI	Transmission Owner Reinforcement Instruction

Reference material

- [CMP417: Extending principles of CUSC Section 15 to all Users](#)
- [CM093: Extending the principles of the User Commitment Methodology to Final Sums Methodology as a consequence of CUSC Modification – CMP417](#)
- [CMP428: User Commitment liabilities for Onshore Transmission circuits in the Holistic Network Design](#)

⁵ If the modification has an impact on Article 18 T&Cs, it will need to follow the process set out in Article 18 of the Electricity Balancing Regulation (EBR – EU Regulation 2017/2195) – the main aspect of this is that the modification will need to be consulted on for 1 month in the Code Administrator Consultation phase. N.B. This will also satisfy the requirements of the NCER process.

Annexes

Annex	Information
Annex 1	Legal Text
Annex 2	Proposal Form
Annex 3	Terms of reference
Annex 4	Urgency Letters
Annex 5	Workgroup Consultation Responses and Summary Spreadsheet
Annex 6	Workgroup vote
Annex 7	Action Log
Annex 8	Attendance Record
Annex 9	Code Administrator Consultation responses
Annex 10	CM094 Sendback Letter