



Making a positive difference
for energy consumers

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Dear Mr. Toms,

CUSC Modifications Panel views on urgency for CMP267 'Defer the recovery of BSUoS costs, after they have exceeded £30m, arising from any Income Adjusting Events raised in a given charging year, over the subsequent two charging years'

On 18 July 2016, EDF Energy (the 'Proposer') raised Connection and Use of System Code (CUSC) modification proposal CMP267 with the aim of deferring unforeseen increases in Balancing Services Use of System (BSUoS) costs arising from Income Adjusting Events (IAEs). The Proposer requested that CMP267 be treated as an Urgent CUSC Modification Proposal. The CUSC Modifications Panel (the 'Panel') considered the Proposer's urgency request at a special Panel meeting on 19 July 2016.

On 27 July 2016, the Panel wrote to inform us of its majority view that CMP267 should be treated as urgent because the proposal seeks to address an imminent (date-related) issue that could have a significant commercial impact on market participants.

This letter **gives our approval** for CMP267 to be progressed on an urgent basis, following the Code Administrator's timetable set out in Appendix 1 to the Panel's letter.

Background to the proposal

Under the Balancing Services Incentive Scheme (BSIS), National Grid Electricity Transmission (NGET) is able to apply for its System Operator (SO) Incentives scheme to be revised to allow it to recover costs which were beyond its reasonable control and which were caused by an unforeseen event - an IAE.

The unforeseen costs of an IAE can be significant. For example, Ofgem is currently considering an application from NGET to recover £113m in Black Start contracts arising from an IAE.¹ The Proposer is concerned that the introduction of such significant unforeseen costs into BSUoS charges in order to recover them will increase market participant risk premia and increase prices for consumers. The Proposer suggests that deferring IAE-associated BSUoS payments over two years would allow suppliers to

¹ Our consultation on this proposed IAE is on our website: <https://www.ofgem.gov.uk/publications-and-updates/notice-and-consultation-proposed-income-adjusting-event-submitted-national-grid-electricity-transmission-plc-relation-2015-17-electricity-system-operator-incentives-scheme>

recover the costs from a wider customer base over a longer duration and thereby limit the impact on consumers' bills.

The proposal

CMP267 seeks to defer recovery of unforeseen increases in BSUoS costs arising from IAEs by spreading them over a two year period, where increases to "raw BSUoS" amounts to more than £30m in a given charging year. The Proposer considers that this would provide greater certainty to suppliers and generators and support predictability of network charges.

Panel discussion

The Panel recognised our ongoing consideration of the current IAE issue and noted that Ofgem has to determine, by 24 August 2016, on the level of cost pass-through for Black Start IAE contracts. The total level of those costs, to be charged through BSUoS, is potentially significant. As such, the Panel considered the proposal to be time sensitive.

The Panel also noted the Proposer's concern regarding the significant additional BSUoS costs incurred within year which could lead to customers experiencing higher risk premia as a result of the IAE.

In this context, the Panel considers that the proposal should be treated as urgent. The majority view of Panel members supported the Code Administrator timetable set out in Appendix 1 to its letter which includes a Workgroup consultation as part of the assessment of the proposal. The Proposer did not support the Code Administrator timetable and suggested a more accelerated timetable (Appendix 2 to the Panel's letter) to be achieved by omitting the Workgroup consultation.

Our views

We have considered the proposal, the Proposer's justification for urgency and the views of the Panel. On balance, we consider that the proposed modification does meet our criteria for urgency. Specifically, we view the proposal as "*an imminent issue or a current issue that if not urgently addressed may cause a significant commercial impact on parties, consumers or other stakeholder(s)*".²

We concur with the reasoning of the Panel that urgent consideration of this modification proposal is justified. Ofgem is currently considering a request by National Grid for recovery of £113 million in Black Start IAE contracts. This decision will have a financial impact on all parties paying BSUoS charges. This modification proposal is therefore urgent to the extent that it seeks to address the recovery by National Grid of IAE costs – such as those currently under consideration by Ofgem.

We note that the CUSC modification process is designed to allow sufficient opportunity for industry to consider, and submit their views about, a modification proposal. We consider that this should apply in the case of this proposal, albeit based on an accelerated urgent timetable as supported by the majority of the Panel (Appendix 1 to the Panel's letter).

We prefer to allow as much time as possible to industry to be consulted on the proposal, recognising that the less that industry is consulted, the greater the risk that we do not receive enough information on which to make a decision in the final modification report. This includes ensuring that potential alternative solutions are properly considered

² https://www.ofgem.gov.uk/system/files/docs/2016/02/160217_urgency_letter_and_amended_criteria_2.pdf

alongside the original proposal. We would also encourage, within the urgent timetable, that some flexibility is shown on the milestone dates set out there so as to maximise the period of the Workgroup Consultation if possible.

For the same reason, we do not consider that the Proposer's alternative urgent timetable is suitable. We note the Proposer's concerns that, if this issue is not dealt with by the end of September 2016, customers may "continue to bear the full risk on the eventual outcome". Nevertheless, the potential implications of the modification require careful consideration by a Workgroup, including the need to ensure detailed and comprehensive input from relevant stakeholders. This is not envisaged in the Proposer's preferred timetable.

For the avoidance of doubt, in granting this request for urgency, we have made no assessment of the merits of the proposal and nothing in this letter in any way fetters the discretion of the Authority in respect of this proposal.

Yours sincerely,

Mark Copley
Associate Partner, Wholesale Markets
Duly authorised on behalf of the Authority