












| CUSC Modification Proposal Form | | At what stage is this document in the process? | | | | | | | | | | | | |
|--|---|---|----|---------------|----|------------------------|----|------------------|----|---------------------------------|----|--------------------------------|----|--------------------------------|
| <h1>CMP341:</h1> <p>Mod Title: CUSC Sandbox: enabling derogation from certain obligations to support small-scale trials of innovative propositions</p> | | <table border="1"> <tr> <td>01</td> <td>Proposal Form</td> </tr> <tr> <td>02</td> <td>Workgroup Consultation</td> </tr> <tr> <td>03</td> <td>Workgroup Report</td> </tr> <tr> <td>04</td> <td>Code Administrator Consultation</td> </tr> <tr> <td>05</td> <td>Draft CUSC Modification Report</td> </tr> <tr> <td>06</td> <td>Final CUSC Modification Report</td> </tr> </table> | 01 | Proposal Form | 02 | Workgroup Consultation | 03 | Workgroup Report | 04 | Code Administrator Consultation | 05 | Draft CUSC Modification Report | 06 | Final CUSC Modification Report |
| 01 | Proposal Form | | | | | | | | | | | | | |
| 02 | Workgroup Consultation | | | | | | | | | | | | | |
| 03 | Workgroup Report | | | | | | | | | | | | | |
| 04 | Code Administrator Consultation | | | | | | | | | | | | | |
| 05 | Draft CUSC Modification Report | | | | | | | | | | | | | |
| 06 | Final CUSC Modification Report | | | | | | | | | | | | | |
| <p>Purpose of Modification:</p> <p>To enable parties to be derogated from specific CUSC obligations in order to conduct small-scale, time-limited live trials of innovative products, services, connections or processes.</p> | | | | | | | | | | | | | | |
|  | <p>The Proposer recommends that this modification should be:</p> <ul style="list-style-type: none"> assessed by a Workgroup <p>This modification was raised 12 March 2020 and will be presented by the Proposer to the Panel on 27 March 2020. The Panel will consider the Proposer's recommendation and determine the appropriate route.</p> | | | | | | | | | | | | | |
|  | <p>High Impact:</p> | | | | | | | | | | | | | |
|  | <p>Medium Impact</p> <ul style="list-style-type: none"> CUSC Parties CUSC Panel National Grid ESO (as Code Administrator) Parties facing barriers to innovation | | | | | | | | | | | | | |
|  | <p>Low Impact</p> | | | | | | | | | | | | | |

| Contents | |  Any questions? Contact: Paul Mullen  Paul.j.mullen@nationalgrideso.com  07794 537028 Proposer: Phil Smith  philip.smith4@nationalgrideso.com  07779 560 468 National Grid ESO Representative: Phil Smith  philip.smith4@nationalgrideso.com  07779560468 |
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| 11 | Modification guidance and using this template | Error! Bookmark not defined. |
| Timetable | | |
| <i>To be updated following first Workgroup.</i> | | |
| The Code Administrator recommends the following timetable: <i>(amend as appropriate)</i> | | |
| Initial consideration by Workgroup | dd month year | |
| Workgroup Consultation issued to the Industry | dd month year | |
| Modification concluded by Workgroup | dd month year | |
| Workgroup Report presented to Panel | dd month year | |
| Code Administration Consultation Report issued to the Industry | dd month year | |
| Draft Final Modification Report presented to Panel | dd month year | |
| Modification Panel decision | dd month year | |
| Final Modification Report issued the Authority | dd month year | |
| Decision implemented in CUSC | dd month year | |

Proposer Details

| | |
|--|--|
| Details of Proposer: (Organisation Name) | Phil Smith National Grid ESO |
| Capacity in which the CUSC Modification Proposal is being proposed: (i.e. CUSC Party, BSC Party or "National Consumer Council") | Electricity System Operator |
| Details of Proposer's Representative: Name: Organisation: Telephone Number: Email Address: | Phil Smith National Grid ESO 07779 560 468 philip.smith4@nationalgrideso.com |
| Details of Representative's Alternate: Name: Organisation: Telephone Number: Email Address: | Rob Wilson National Grid ESO 07799 656 402 robert.wilson2@nationalgrideso.com |
| Attachments <ol style="list-style-type: none"> Legal text for BSC Modification P362 (BSC sandbox) – 13 pages Process map for BSC Modification P362 - 1 page | |

Impact on Core Industry Documentation.

Please mark the relevant boxes with an "x" and provide any supporting information

| | |
|------------------|--------------------------|
| BSC | <input type="checkbox"/> |
| Grid Code | <input type="checkbox"/> |
| STC | <input type="checkbox"/> |
| Other | <input type="checkbox"/> |

Although there is no direct impact on the above codes, there is alignment with the following modifications that introduce or seek to introduce similar sandbox arrangements:

- BSC modification P362 - approved in August 2018
- Grid Code modification GC0140 - raised in March 2020

1 Summary

Glossary of terms used in this document

| | |
|-----------|---|
| The Panel | CUSC Panel |
| CACoP | Code Administrators Code of Practice |
| NGESO | National Grid Electricity System Operator |
| ESO | Electricity System Operator |
| BSC | Balancing and Settlement Code |
| ELEXON | The Balancing and Settlement Code Company |
| DCUSA | Distribution Connection and Use of System Agreement |

Defect

The CUSC does not contain appropriate provisions to enable live trials of innovative products, services, connections or processes. This makes it a barrier to innovation and competition in the generation and supply of electricity.

What

The CUSC should be updated to enable CUSC parties to be derogated against specific CUSC obligations, to enable live testing of innovative technologies or processes. Derogations should be subject to appropriate eligibility criteria being met. They should be temporary, small-scale and with a focus on testing, learning and implementing outcomes if successful.

Ofgem will act as the coordinating body, receiving and assessing applications as per Principle 14 of the Code Administration Code of Practice, 'Code Administrators shall support prospective energy innovators'.

Any provisions related to charging methodologies, User Commitment Methodology and to codified obligations to pay transmission charges or securities would be protected and made exempt from derogation in any circumstances.

Why

This change will enable innovation and competition, by making it easier for parties to test the viability of new approaches. Where appropriate, proven new developments could then be incorporated into CUSC via the normal modification process. This new derogation process also ensures compliance with Principle 14 of CACoP. Ultimately these changes support the transformation to a sustainable energy system and the UK's commitment to net zero emission by 2050.

How

Section 8 'CUSC Modification' of the CUSC should be updated to include the sandbox process and new defined terms should be added to Section 11 'Interpretation and Definitions'.

2 Governance

Justification for Normal Procedures

This modification should not be considered suitable for urgency, self-governance or fast-track self-governance.

It does not meet the criteria for urgency, and should not be considered for self-governance, as it's likely to have a material impact on the CUSC's governance procedures.

Requested Next Steps

This modification should be assessed by a Workgroup.

3 Why Change?

Background, Rationale and Benefits

The energy system is changing; the CUSC needs to evolve to support innovation

We are seeing wide-ranging changes across the electricity system. These changes will present huge challenges for the infrastructure and security of energy supplies and are needed to facilitate the transition to a zero-carbon power system and the UK's commitment to net zero emission by 2050.

The CUSC needs to evolve to make sure that it isn't a barrier to these developments, but instead actively supports innovators who want to test new products, services and business models.

Ofgem introduced an electricity market sandbox in 2017

As part of [Innovation Link](#), Ofgem launched the [energy regulatory sandbox](#) in 2017, as a 'means of experimenting with ways of mitigating barriers where an innovator's plans didn't readily fit with the rulebook, but where there was the prospect of consumer benefit.'

The Ofgem sandbox can provide derogations to certain licence conditions, but not to any specific aspects of CUSC.

Ofgem invited industry code chairs to adopt the sandbox approach

The energy regulatory sandbox was limited in scope, so in January 2018, Ofgem invited each of the code administrators to raise 'sandbox' modifications to support the project and engaged with several industry code Panels.

BSC and DCUSA developed sandbox modifications

In August 2018, Ofgem [approved](#) the BSC mod [P362](#) 'Introducing BSC arrangements to facilitate an electricity market sandbox'.

In November 2019, Ofgem [approved](#) the DCUSA Change Proposal [DCP 345](#) 'Sandbox Application'.

Principle 14 was added to CACoP to support innovation

In September 2018, [Ofgem added Principle 14](#) to the [CACoP](#). It encourages code administrators to develop cross code processes, and identify and facilitate changes to their codes to support Ofgem's innovation activities.

The CUSC doesn't contain sandbox derogation provisions

Currently, the only option for parties who want to trial innovative projects that aren't compatible with the existing CUSC is to raise a formal CUSC modification.

- Developing a modification is slow and resource intensive for industry and NGENSO and therefore inefficient for a small, time-limited trial. Innovators may not have the funding to wait for regulatory change, so the lengthy process is a barrier.
- The modification process is intended to introduce permanent changes to the CUSC, leading to industry-wide change that is applicable to all CUSC Parties. It would not be suitable to apply a permanent change to all CUSC parties for a product or service that hasn't been trialled first.
- It may be uneconomical for non-CUSC parties to accede to the CUSC and comply with all of its obligations before they are able to prove whether the concept they are testing is commercially viable.

This approach is not suitable for small-scale live trials of innovative technologies and without appropriate provisions, the CUSC can be a barrier to innovation and competition.

Enabling sandbox derogations will support innovation and competition

Making this change will encourage innovation and competition, by making it easier for parties to test the viability of new technologies or business models.

Where appropriate, proven new developments could then be incorporated into CUSC via the normal modification process in the future.

CUSC parties, innovators and consumers will benefit from the greater choice and opportunities that will be available by enabling new and innovative products and services. Ultimately, this supports the transformation to a sustainable energy system and the UK's commitment to net zero emission by 2050.

The change supports Ofgem's Regulatory Sandbox, compliments the BSC and DCUSA sandbox modifications, and aligns with the new Principle 14 of CACoP.

4 Code Specific Matters

Technical Skillsets

Knowledge and/or understanding of the following:

- The CUSC, including the governance rules
- Ofgem’s Innovation Link and the energy regulatory sandbox
- CACoP Principle 14 ‘Code Administrators shall support prospective energy innovators’
- The types of innovation to which the CUSC currently presents barriers
- The impact of derogations and trials of innovative projects on the operation of the NETS
- BSC modification P362 ‘Introducing BSC arrangements to facilitate an electricity market sandbox’
- DCUSA Change Proposal DCP 345 ‘Sandbox Application’

Reference Documents

| | |
|---|---|
| Ofgem - Innovation link | https://www.ofgem.gov.uk/about-us/how-we-engage/innovation-link |
| Ofgem - Regulatory Sandbox | https://www.ofgem.gov.uk/publications-and-updates/what-regulatory-sandbox |
| Ofgem - Innovation Sandbox Service Overview | https://www.ofgem.gov.uk/publications-and-updates/innovation-sandbox-service-overview |
| Ofgem - Guidance on technical derogation requests | https://www.ofgem.gov.uk/ofgem-publications/125007 |
| Ofgem – Approval of changes to technical derogation process to incorporate 3 European Network Codes | https://www.ofgem.gov.uk/publications-and-updates/decision-changes-guidance-document-technical-derogation-requests |
| BSC sandbox modification P362 | https://www.elexon.co.uk/mod-proposal/p362/ |
| BSC Sandbox Procedure and eligibility criteria | https://www.elexon.co.uk/bsc-and-codes/bsc-related-documents/bsc-sandbox-procedure/ |
| DCUSA Change Proposal DCP 345 ‘Sandbox Application’ | https://www.dcusa.co.uk/event/dcp-345-change-report/ |
| CACoP Principle 14 | https://www.ofgem.gov.uk/licences-industry-codes-and-standards/industry-code-governance/code-administration-code-practice-cacop |

5 Solution

The proposed modification enables CUSC parties to be derogated against specific CUSC obligations, to enable live testing of innovative products, services, connections or processes. Derogations should be subject to appropriate eligibility criteria being met. They should be temporary and small-scale with a focus on testing, learning and implementing outcomes if successful.

High Level Process

The process aims to align with the principles of the BSC sandbox modification P362. The key elements are as follows:

Applications are sent to Ofgem

Ofgem will act as the single point of access to coordinate applications across the industry. Applications may impact on more than one Code, or both Codes and Licenses

They will assess whether each application impacts the CUSC and pass relevant applications to NGENSO Code Administration team.

There is potential to charge the applicant a fee to account for the costs of administering a derogation.

NGESO evaluate each application and report to the Panel

NGESO will evaluate the proposed derogation, consult with industry, and then report to the Panel, including, but not limited to:

- a summary of consultation responses
- assessment of risks, impacts and fees to be paid
- assessment of the proposal against eligibility criteria
- a transition plan (after the derogation ends)

The Panel makes a recommendation

The Panel will recommend to the Authority whether the derogation should be granted, and whether any conditions should be applied.

Ofgem makes the final decision

The decision on whether to grant the derogation is made by Ofgem. There are also send-back provisions.

The derogation comes into place

Anyone (other than NGENSO) can apply to the electricity market sandbox, including non-CUSC parties. However, if successful, such parties will have to accede to the CUSC for the derogation(s) to take effect. Once acceded, the recipient of the derogation will be subject to all CUSC Obligations except those from which they have received derogation.

Maximum 3 years

The cumulative Derogation and Transition Period will be a maximum of 3 years - the time-period should be the shortest time necessary to test the proposal and a robust Transition Plan will be required.

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| Derogation expires – transition to BAU | When a derogation expires, the party must transition to BAU either by becoming fully compliant with CUSC, or by raising and implementing a modification to make the alterations permanent and open to all CUSC Parties |
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The CUSC sandbox application is not a way of evading the rules of the CUSC. Applications will be assessed against agreed eligibility criteria which will include how the Sandbox application would better facilitate the Applicable CUSC Objectives.

Principles

The CUSC sandbox process should be guided by a set of broad principles that set basic expectations and guidance. This provides a degree of flexibility and allows the Panel to evaluate applications on a case by case basis. The following principles are not exhaustive.

| | |
|---|---|
| Applications should benefit industry and consumers | Applications to facilitate trials of an identified process improvement and/or innovative approach to current practice are encouraged and should offer identifiable direct or indirect benefits to wider industry and consumers, such as a reduction in time and cost. |
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|--|---|
| Applications meet CUSC objectives | Sandbox projects should show demonstrable benefit to the better the facilitation of the Applicable CUSC objectives. |
|--|---|

| | |
|--|---|
| Exemptions for Charging and User Commitment Methodology | Any provisions related to charging methodologies and User Commitment Methodology and to codified obligations to pay transmission charges and/or securities would be protected and made exempt from derogation in any circumstances. |
|--|---|

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|---|--|
| Higher legal requirements such as licence conditions cannot be derogated | Any provisions related to requirements that have originated from outside the CUSC and that have a higher legal standing cannot be derogated in practice. CUSC derogation should have no effect on compliance with the following non-exhaustive list of provisions and requirements: <ul style="list-style-type: none"> (i) any Licence conditions (ii) any other Industry Code (iii) any relevant European Legal requirement where applicable (iv) any relevant UK primary legislation |
|---|--|

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|---|---|
| Derogations that align with wider industry changes may be unsuitable | Where the derogation being requested is materially similar to an area already under consideration as part of a wider industry, Government and/or Ofgem-led review, and would likely conflict and make the derogation invaluable or inoperable, it would not be appropriate to grant the derogation request. |
|---|---|

Points for the Workgroup to consider

To develop the proposal, we suggest that the Workgroup to consider the following:

- Which sections of the CUSC, if any, are unlikely to meet the requirements for derogation in any circumstances and therefore might need to be considered out of scope
- The market participants that should be able to apply for derogation
- What process, if any, applicants need to go through before formally requesting derogations
- The conditions the Panel should consider when determining whether to grant a derogation (including whether Panel should consult)
- How to ensure the processes and derogated projects are transparent to industry
- How to manage and limit risk to NETS, the CUSC and other industry participants of derogated projects
- The role NGENSO has in supporting derogation requests
- The transition process from tested/proved derogated projects to full BSC compliance.

6 Impacts & Other Considerations

| Who or what is impacted? | What is the impact? |
|--|---|
| CUSC Review Panel | The Panel's role and function expands, as it will recommend to the Authority whether to approve each derogation |
| National Grid ESO <i>(as Code Administrator for the CUSC)</i> | The Code Administrator will need to implement and administrate parts of the new process. They will consult with industry and report to the Panel on each application. |
| Ofgem | Ofgem will need to implement new processes. |
| Innovators | Parties who want to test new ideas will now be able to do so through this new derogation process. These could include existing CUSC parties and non-CUSC parties. |
| CUSC Parties | Impacted indirectly by the granting of derogations to other market participants |

| | |
|---------------------------|--|
| Other Code Administrators | Indirect impact as similar processes are already in place for BSC and DCUSA, and may be in the future for other Industry Codes |
|---------------------------|--|

Which processes are impacted?

No existing processes are impacted. New arrangements and processes will be put in place to introduce the concept of derogation from certain CUSC obligation and to facilitate the Sandbox Procedure.

Does this modification impact a Significant Code Review (SCR) or other significant industry change projects, if so, how?

None expected

Consumer Impacts

Consumers will benefit from this modification, as it will enable more innovation and more competition. This in turn leads to a more efficient and reliable energy system and potentially lower consumer bills than would otherwise be the case.

7 Relevant Objectives

Mandatory for the Proposer to complete.

| Impact of the modification on the Applicable CUSC Objectives (Standard): | |
|---|--|
| Relevant Objective | Identified impact |
| (a) The efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence; | None |
| (b) Facilitating effective competition in the generation and supply of electricity, and (so far as consistent therewith) facilitating such competition in the sale, distribution and purchase of electricity; | Positive The proposal enables more trials of innovative ideas from more parties, leading to better knowledge of new approaches across the industry. This in turn will result in more innovative ideas being implemented and therefore a more competitive market. |
| (c) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency *; and | None |
| (d) Promoting efficiency in the implementation and administration of | Positive |

the CUSC arrangements.

As trials will be on a small scale, they won't have a material impact on the rest of the industry, allowing industry resources to be focused elsewhere.

If successful trials lead to enduring code changes, then more information about the solution and any impacts will be known in advance, which will make the modification process more efficient.

*Objective (c) refers specifically to European Regulation 2009/714/EC. Reference to the Agency is to the Agency for the Cooperation of Energy Regulators (ACER).

8 Implementation

Implementation of this proposal requires changes to the CUSC and development of code administration processes to enable NGESO to process sandbox applications.

9 Legal Text

The legal should be developed with the Workgroup. The legal text for the BSC sandbox modification (P362) is attached and can be used as the initial reference point for the legal text for this modification.

The final text should align with the principles of the BSC and DCUSA sandbox modifications, and Ofgem's energy regulatory sandbox.

It should also make clear that Section 14 (Charging Methodologies) and Section 15 (User Commitment Methodology) and any provisions elsewhere in CUSC relating to the same, would be protected and made exempt from derogation in any circumstances.

10 Recommendations

Proposer's Recommendation to Panel

Panel is asked to:

- Agree that Normal governance procedures should apply
- Refer this proposal to a Workgroup for assessment.