

CUSC Code Administrator Consultation

CMP342: Clarification of VAT for Securities in the CUSC

Overview: This modification seeks to clarify, and confirm the position that National Grid ESO (NGESO) has always applied, that when calculating the amount Users are required to secure under the CUSC, the amount of applicable Value Added Tax (VAT) is to be included.

Modification process & timetable



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

Have 15 minutes? Read the full [Code Administrator Consultation](#)

Have 20 minutes? Read the full Code Administrator Consultation and annexes

Status summary: Code Administrator Consultation. We are now consulting on this proposed change.

This modification is expected to have a: Low impact	On all Users.	
Governance route	The CUSC Panel unanimously agreed that this modification should follow the self-governance route and proceed to Code Administrator Consultation. The Panel will make the decision on whether it should be implemented.	
Who can I talk to about the change?	<p>Proposer: Nick George, National Grid ESO</p> <p>Email: nick.george@nationalgrideso.com</p>	<p>Code Administrator: Shazia Akhtar</p> <p>Phone: 07787266972</p> <p>Email: Shazia.Akhtar2@nationalgrideso.com</p>
How do I respond?	Send your response proforma to cusc.team@nationalgrideso.com by 5pm on 10 July 2020.	

Executive Summary

CMP342 intends to clarify the position on VAT and securities, confirming the approach that NGENSO has always taken when calculating the amount to be secured.

This will ensure that there is no ambiguity when interpreting the CUSC and that the amount Users are required to secure, will include Value Added Tax (VAT).

What is the issue?

The CUSC includes requirements for Users to provide security for certain charges. NGENSO includes the applicable VAT when calculating the amount to be secured, as the amount payable by a User to NGENSO includes payment of VAT. A User has queried NGENSO's right to request security for the VAT element of the charges.

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

Proposer's solution:

Amend the relevant sections of the CUSC to clarify that the security calculation is based on the relevant charge including the applicable VAT.

Implementation date:

4 September 2020, 1 working day after the appeals window closes, providing no objections have been raised.

What is the impact if this change is made?

Who will it impact?

This modification may have a low impact on all Users.

Interactions

None.

Introduction

This document is the CMP342 **Code Administrator Consultation**. This document outlines:

- **What is the issue?**
- **What is the solution?**
 - Proposer's solution
 - Legal text
- **What is the impact of this change?**
- **When will the change taken place?**
- **How to respond**
- **Acronym table and reference material**

The questions we are seeking your views on are embedded within the document and outlined in the [How to respond](#) section.

What is the issue?

What is the issue?

The CUSC includes requirements for Users to provide security for certain charges. The intention and practise is that NGESO includes the applicable VAT when calculating the amount to be secured, as the amount payable by a User to NGESO includes payment of VAT. A User has queried NGESO's right to request security for the VAT element of the charges. To ensure current and future parties fully understand their obligations, NGESO believe a modification to the code to clarify this provision is appropriate.

The relevant provisions of code that need amending are:

- Section 2, Part III - security for Terminations Amounts, relating to Connection Charges
- Section 3, Part III – security for BSUOS and TNUOS Demand Charges
- Section 15, Part Three – security for Cancellation Charges for generators terminating pre-connection
- Schedule 2, Exhibit 3 – security for Final Sums for demand customers terminating pre-connection

Why is it an issue?

The security requirements provide financial security from Users for all or a proportion of charges, reducing the financial risk on all other Users from a User defaulting on payment obligations. In the event of a User defaulting, the VAT must still be paid to HMRC, and therefore it is important when calculating the amount that a Customer secures that it includes the applicable VAT. This has always been NGESO's practice (for the avoidance of doubt, including its predecessor, National Grid Electricity Transmission plc).

What is the solution?

Proposer's solution:

The changes set out in the Final Legal Text below, are made to clarify that the amounts Users are required to secure shall include the applicable VAT.

Final Legal text

The final legal text for this change can be found below:

- In CUSC paragraph 2.21.2(a), insert “(inclusive of any applicable **Value Added Tax** that would be due)” immediately after “in respect of **Termination Amounts**”
- In CUSC paragraph 3.23.2, insert a new sub-paragraph (e):
“(e) any applicable **Value Added Tax** that would be due on the amounts referred to in this Paragraph 3.23.2”
- In CUSC Section 15, Part Three, insert new paragraph 3.4:
“3.4 The **Cancellation Charge Secured Amount** shall be calculated using the **Cancellation Charge** inclusive of any applicable **Value Added Tax** that would be due.”
- In CUSC Schedule 2 Exhibit 3, Part 2:
 - In Clause 9A.1.4, insert “(inclusive of any applicable **Value Added Tax** that would be due)” immediately after “The security to be provided shall be in an amount not greater than such sums payable on termination”
 - In Clause 9B.2.1, insert “(inclusive of any applicable **Value Added Tax** that would be due)” immediately after “in respect of **Final Sums** and **The Company Engineering Charges** and other expenses in relation to seeking **Consents** referred to in Clause 2.4 of this **Construction Agreement**”

What is the impact of this change?

Who will it impact?

This modification may have a low impact on all Users.

What are the positive impacts?

This modification confirms the current position on securities, which are in place to ultimately protect consumers.

Proposer's Assessment against Code Objectives

CUSC Non-charging objectives;

The Proposers view is that this modification will have a positive impact on the CUSC applicable objectives A, B and D. This is because the modification clarifies the position on securities, allowing NGENSO to efficiently administer the securities processes and ensure all Users secure on a consistent basis, protecting other Users, and ultimately consumers.

Impact of the modification on the Code objectives:	
Relevant Objective	Identified impact
(a) The efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence;	Positive
(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
(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 the CUSC arrangements.	Positive
*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).	

Code Administrator Consultation question: Do you believe that CMP342 Original proposal better facilitates the Applicable CUSC (non-charging) Objectives?

When will this change take place?

Implementation date:

The proposed implementation date is 4 September 2020.

Implementation approach:

NGESO seeks implementation of the modification as soon as possible, to ensure that there is no ambiguity possible when interpreting the CUSC and it can take prompt action where a User defaults in providing the required security amount, including for any applicable VAT.

It is proposed that the CMP342 is implemented 1 working day after the appeals window closes, providing no objections have been raised.

Code Administrator Consultation question: Do you support the implementation approach?

How to respond

Code Administrator Consultation questions:

- Do you believe that CMP342 Original proposal better facilitates the Applicable CUSC Non-Charging Objectives?
- Do you support the implementation approach?
- Do you have any further comments?

Views are invited on the proposals outlined in this consultation, which should be received by 5pm on **10 July 2020**. Please email your formal response using the response pro-forma to cusc.team@nationalgrideso.com.

If you wish to submit a confidential response, please note that information provided in response to this consultation will be published on National Grid ESO's website unless the response is clearly marked "Private & Confidential", we will contact you to establish the extent of the confidentiality. A response marked "Private & Confidential" will be disclosed to the Authority in full but, unless agreed otherwise, will not be shared with the CUSC Modifications Panel or the industry and may therefore not influence the debate to the same extent as a non-confidential response. Please note an automatic confidentiality disclaimer generated by your IT System will not in itself, mean that your response is treated as if it had been marked "Private and Confidential".

Acronym table and reference material

Acronym	Meaning
NGESO	National Grid Electricity System Operator
VAT	Value Added Tax

Reference material:

None

Annexes

Annex	Information
Annex 1	CMP342 Self-Governance Statement