

Modification proposal:	<b>Connection and Use of System Code (CUSC) CMP351: Financial Securities – Timescales for Provision of Cash Deposit into Escrow (CMP351)</b>		
Decision:	The Authority <sup>1</sup> directs that this modification be made <sup>2</sup>		
Target audience:	National Grid Electricity System Owner (NGESO), Parties to the CUSC, the CUSC Panel and other interested parties		
Date of publication:	28 January 2021	Implementation date:	Ten working days after date of Authority decision

## Background

Connection Charges recover the cost of installing and maintaining connection assets which connect individual users to the GB Electricity Transmission Network<sup>3</sup> and are determined by the Connection and Use of System Code. Financial Securities are provided to cover the risk of defaulting on paying Connection Charges.

Financial Securities can be provided in the form of a Letter of Credit (LoC), Parent Company Guarantee/Company Guarantee (PCG / CG), Performance Bond (PB) or a Cash Deposit. Documentary forms of security (LoC, PCG/CG and PB) typically have a commencement and expiry date whilst a Cash Deposit is held in a NGESO managed escrow account and has no such defined timeframes. To enable NGESO to manage exposure it is necessary to require CUSC parties to put in place the Financial Securities 45 calendar days prior to the start of the next Security Period.

Documentary forms of security can be pre-dated to the commencement of the next

<sup>1</sup> References to the "Authority", "Ofgem", "we" and "our" are used interchangeably in this document. The Authority refers to GEMA, the Gas and Electricity Markets Authority. The Office of Gas and Electricity Markets (Ofgem) supports GEMA in its day to day work. This decision is made by or on behalf of GEMA.

<sup>2</sup> This document is notice of the reasons for this decision as required by section 49A of the Electricity Act 1989.

<sup>3</sup> <https://www.nationalgrideso.com/industry-information/charging/connection-charges>.

Security Period whilst cash deposits are effective from the date they are provided. CUSC parties providing Cash Deposits are therefore over-securing for a period of 45 days prior to the start of the next Security Period.

The purpose of this modification proposal is to reduce the timescales for Cash Deposits for Financial Securities from 45 calendar days to 21 calendar days. The proposal seeks to address and balance the inadvertent disparity between CUSC parties providing Cash Deposits and NGENSO's obligations to the wider industry. This is proposed to encourage competition by not inadvertently penalising CUSC parties wishing to provide Cash Deposits as a means of Financial Security into an account managed and controlled by NGENSO.

### **The modification proposal CMP351**

On 10 September 2020, CMP351<sup>4</sup> was proposed by NeuConnect Britain Limited (the Proposer) and was submitted to the CUSC Panel<sup>5</sup> for its consideration. CMP351 aims to amend section 15.6.2.4 and section 15.6.3.4 of the CUSC to reduce the timescales for Cash Deposits for Financial Securities from 45 calendar days to 21 calendar days.

A timescale of 21 calendar days prior to the start of the Security Period is more appropriate for Cash Deposits. This timeframe allows NGENSO to issue its first and subsequent Event of Default letters<sup>6</sup> and to notify to the relevant CUSC party of the NGENSO's right to terminate the Construction Agreement and associated Bilateral Connection Agreement<sup>7</sup>.

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<sup>4</sup> <https://www.nationalgrideso.com/industry-information/codes/connection-and-use-system-code-cusc-old/modifications/cmp351-financial>

<sup>5</sup> The CUSC Panel is established and constituted from time to time pursuant to and in accordance with section 8 of the CUSC.

<sup>6</sup> The Event of Default is set out in Section 5 of the CUSC, <https://www.nationalgrideso.com/document/91366/download>. Prior to the termination of the connection agreement or connection agreement, the NGENSO issues a series of letters reminding the CUSC party that the failure to pay represents an event of default.

<sup>7</sup> Connection is set out in Section 5 of the CUSC, <https://www.nationalgrideso.com/document/91366/download>. Prior to the termination of the connection agreement or connection agreement, the NGENSO issues a series of letters reminding the CUSC party that the failure to pay represents an event of default.

## CUSC Panel recommendation

On 27 November 2020, the CUSC Panel voted on CMP351 against the Applicable CUSC Objectives as set out in Standard Condition C10 of the Electricity Transmission Licence<sup>8</sup>. The CUSC Panel unanimously voted that CMP351 better facilitated the Applicable CUSC Objectives in comparison to the baseline.

## Our decision

On 9 December 2020, the Final Modification Report (FMR)<sup>9</sup> was published. We have considered the issues raised in the FMR and we have taken into account the responses to the industry consultation on the modification proposal which are attached to the FMR. We have concluded that:

- implementation of the modification proposal will better facilitate the achievement of the applicable Objectives of the CUSC;<sup>10</sup> and
- directing that the modification be made is consistent with our principal objective and statutory duties.<sup>11</sup>

## Reasons for our decision

We consider this modification proposal will better facilitate the CUSC Objective (b) as set out in Standard Licence Condition C10: Connection and Use of System Code, and has a neutral impact on the other applicable CUSC Objectives (a), (c) and (d)<sup>12</sup>:

***(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;***

We agree with the Proposer that reducing the timescales for cash deposits for Financial Securities from 45 calendar days to 21 calendar days will encourage competition by not

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<sup>8</sup> As set out in Standard Condition C10 of the Electricity Transmission Licence, see: <https://epr.ofgem.gov.uk/Content/Documents/Electricity%20transmission%20full%20set%20of%20consolidated%20standard%20licence%20conditions%20-%20Current%20Version.pdf>

<sup>9</sup> <https://www.nationalgrideso.com/industry-information/codes/connection-and-use-system-code-cusc-old/modifications/cmp351-financial>

<sup>10</sup> As set out in Standard Condition C5 of the Electricity Transmission Licence, see: <https://epr.ofgem.gov.uk/Content/Documents/Electricity%20transmission%20full%20set%20of%20consolidated%20standard%20licence%20conditions%20-%20Current%20Version.pdf>.

<sup>11</sup> The Authority's statutory duties are wider than matters which the Panel must take into consideration and are detailed mainly in the Electricity Act 1989 as amended.

<sup>12</sup> As set out in Standard Condition C10 of the Electricity Transmission Licence, see: <https://epr.ofgem.gov.uk/Content/Documents/Electricity%20transmission%20full%20set%20of%20consolidated%20standard%20licence%20conditions%20-%20Current%20Version.pdf>

inadvertently disadvantaging CUSC parties wishing to provide cash as a means of Financial Security into an account managed and controlled by NGESO.

### **Decision notice**

In accordance with Standard Condition C10 of the Transmission Licence, the Authority hereby directs that modification proposal CMP351:“ Financial Securities – Timescales for Provision of Cash Deposit into Escrow” be made.

**Simon Wilde**

**Director, Analysis and Assurance**

Signed on behalf of the Authority and authorised for that purpose