

CUSC Panel Minutes: 17 December 2021

CUSC Panel Minutes: Meeting Number 288

Date: 17/12/2021 **Location:** Microsoft Teams

Start: 10:00am **End:** 1:00pm

Participants

Attendee	Initials	Company
Trisha McAuley	TM	Independent Panel Chair
Paul Mullen	PM	Code Administrator, National Grid Electricity System Operator
Ren Walker	RW	Technical Secretary, Code Administrator, National Grid Electricity System Operator
Jennifer Doherty	JD	National Grid Electricity System Operator
Paul Jones	PJ	Users' Panel Member
Nadir Hafeez	NH	Authority Representative
Andy Pace	AP	Users' Panel Member
Garth Graham	GG	Users' Panel Member
Joseph Dunn	JD	Users' Panel Member
Cem Suleyman	CS	Users' Panel Member
Andrew Enzor	AE	Users' Panel Member
Mark Duffield	MD	Users' Panel Member (Alternate)
Jeremy Caplin	JC	BSC Representative (Observer)
Simon Vicary	SV	Agenda Item 6 – Proposer of CMP381

Apologies	Initials	Company
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1. Introductions and Apologies for Absence

11188. No apologies were received from Panel members.

2. Approval of minutes from previous meetings

11189. The meeting minutes from the CUSC Panel on 26 November 2021 were approved by the Panel, subject to an amendment by NH with regard to the Ofgem moratorium dates.

3. Action log

11190. The CUSC Panel reviewed the open actions from the meeting held on 26 November 2021, which can be found on the Actions Log.

4. Chair update

11191. TM advised the Panel that, in line with government guidelines, the face-to-face Panel meeting in January would now be held as a virtual meeting.

5. Authority decisions

11192. NH confirmed that no decisions on CUSC Modifications had been made since the Panel meeting held on 26 November 2021.

Awaiting Decisions

11193. NH provided an update on Modifications awaiting decisions. The summary table below sets out which Modifications are with the Authority for decision, together with the expected decision date:

Modification	What this seeks to achieve	Expected Decision Date
CMP335/336 and CMP343/340	Proposes the methodology for Transmission Demand Residual charges to be applied only to 'Final Demand' on a 'Site' basis, as well as how to treat negative locational charges and the application of any charging bands.; CMP335/336 looks at the Transmission Demand Residual billing and consequential changes	Expected final decision date for CMP343, CMP340, CMP335 and CMP336 Modifications was 27 August 2021; however, Ofgem confirmed at CUSC Panel on 27 August 2021 that this date would not be met. At CUSC Panel on 26 November 2021, Ofgem confirmed they have no firm date for a decision. Ofgem's latest expected decision dates table (published on 9 December 2021) confirms that there is currently no firm date for a decision.
CMP292	Introduces a cut-off date for changes to the Charging Methodologies	TBC in 2022 (previously 30 June 2021 and latterly 30 September 2021) as Ofgem consider this to be low priority. Ofgem's latest expected decision dates table (published on 9 December 2021) confirms that there is currently no firm date for a decision.

CMP371	Seeks to update CUSC Section 8 such that it is possible, under one CUSC Modification Proposal, to change CUSC provisions relating to Connection Charges, and Use of System Charging Methodologies alongside non-charging provision.	Ofgem decision was anticipated 29 September 2021 and then 19 November 2021 and now 28 February 2022 (according to Ofgem's latest expected decision dates table published on 9 December 2021).
CMP308	Seeks to modify the CUSC to better align GB market arrangements with those prevalent within other EU member states by removing BSUoS charges from Generation.	On 8 December 2021, Ofgem advised that they are consulting on their minded-to decision on CMP308. Ofgem are minded-to approve the CMP308 Original Proposal, which would move BSUoS charges fully onto demand, with effect from 1 April 2023 and have launched the consultation to gather industry views. The consultation closes 19 January 2022.
CMP368/369	CMP368 seeks to give effect to the Authority determination within the CMP317/327 decision published on the 17 December 2020 to amend the definition of Assets Required for Connection, create new definitions of 'GB Generation Output' and define Generator charges for use in the Limiting Regulation range calculation. To facilitate the change, CMP369 proposes to update the legal text relating to 'Generation Output' detailed in the tariff setting methodology within Section 14.14.5 and the Ex-Post Reconciliation within Section 14.17.37 of the CUSC to align with the updated definitions introduced by CMP368.	On 24 November 2021, Ofgem sent a letter (which was sent to Panel Members, industry and published on 25 November 2021). This formally confirms that Ofgem intend to wait until judgment has been issued in the Judicial Review before reaching a decision in respect of CMP368 and CMP369, even if judgment is not available before the end of the calendar year. Ofgem's latest expected decision dates table (published on 9 December 2021) confirms that there is currently no firm date for a decision.
CMP377	Seeks to provide clarity on how the BSUoS charging methodology is described in Section 14 of the CUSC. The four areas being addressed are: Covid-19 cost recovery calculations, capitalisation of defined terms in CMP373 legal text, clarifying storage import terminology and general housekeeping.	Final Modification Report was sent to Ofgem 6 October 2021, but decision date has yet to be confirmed. No update on anticipated decision date provided at November 2021 Panel. Ofgem's latest expected decision dates table (published on 9 December 2021) confirms that there is currently no firm date for a decision.
CMP328	Seeks to put in place an appropriate process to be utilised when any connection triggers a Distribution impact assessment.	The Final Modification Report was sent to Ofgem on 10 November 2021 and Ofgem confirmed at November 2021 Panel that no decision would be made on this until they have received the equivalent STC Modification. Ofgem's latest expected decision dates table (published on 9 December 2021) confirms that there is currently no firm date for a decision.

11194. The Panel questioned the reason for the delay for the CMP335/336 and CMP343/340 decisions. NH stated that this was due to resource and priority of other modifications; however, they would feed the Panel concerns to Ofgem's charging team.

6. New modifications

CMP381: Defer exceptionally high Winter 2021/22 BSUoS costs to 2022/2023

11195. SV delivered a presentation on urgent CUSC Modification CMP381 to the CUSC Panel. SV advised that this modification seeks to set a £10/MWh cap on BSUoS from 1st January 2022 until 31st March 2022, due, in the view of the Proposer, to exceptional market conditions making BSUoS much higher than industry parties could reasonably have expected. The additional BSUoS costs above the cap would be deferred to the 2022/23 charging year, using the same mechanism approved under CMP345 and CMP350.

11196. SV explained that BSUoS costs are significantly higher than the ESO forecasts so far this winter, as a result of exceptional market conditions, therefore much higher than consumers and industry parties could reasonably have expected or will have budgeted for. SV stated that analysis suggests that the ESO BSUoS forecast will be inaccurate to a similar degree in Q1 2022. As a result, both industry and consumers will not be prepared or able to tolerate the actual extreme prices that may outturn, therefore it is critical to protect consumers and prevent further insolvency contagion to suppliers and generators.

11197. SV advised the Panel that he believes this proposal will have a positive impact on consumers as it spreads the recovery of a portion of the exceptional BSUoS costs over a longer period, providing time for consumers to budget for these exceptional costs at a time of already extreme power prices.

11198. SV set out the rationale for Urgency for CMP381 against Ofgem's Urgency criteria (a) which is *a significant commercial impact on parties, consumers, or other stakeholder(s)*. SV explained that the 'significant commercial impact' arises for both Suppliers and Generators as they could not have forecasted or expected such surges in BSUoS – not least because forecasts provided by ESO have consistently and materially under-forecasted the correct position. Under the status quo arrangements those parties who pay BSUoS for the most part will be unable to recover the amount concerned via retail tariff changes (for Suppliers) given price caps and fixed price contracting etc., or via wholesale price increases (for Generators). These parties, and consumers on direct pass-through contracts (or contracts that can be reopened by Suppliers to pass on these costs), face a significant commercial impact from this current issue. SV explained that, without this change, further insolvencies seem inevitable, leading to further costs and then in turn potential further insolvencies – driving a systemic contagion that could critically disrupt the sector. Urgent action to stabilise the market is needed now and this cannot be delayed.

11199. The Panel discussed CMP381 and the associated request for urgency. The unanimous view of the Panel was that CMP381 does meet Ofgem's Urgency criteria (a). Therefore, the recommendation of the Panel was that CMP381 should be treated as an Urgent CUSC Modification Proposal. Panel members set out their rationale behind this decision:

- Panel Members agreed that this is an imminent issue that has a significant commercial impact on parties and consumers and that it therefore met Ofgem’s Urgency criteria (a). They agreed that the level of cost that could be deferred in a short period of time from Q1 2021 means that affected parties will be significantly commercially impacted if they don't receive clarity quickly on whether this change will be approved or not.
- Some Panel Members also argued that this is an imminent issue that has a significant impact on the safety and security of the electricity and/or gas systems and therefore meets Ofgem’s Urgency criteria (b). Generators in GB are faced with these sudden and substantial additional costs which they are unable to fully recover in the wholesale market given forward trading timescale and therefore could cease trading / operating which, could impact on the security of the electricity system. Another Panel Member added that further supplier failures would place unprecedented pressure on different parts of the industry and so could have unforeseen whole-system consequences.

11200. The CUSC Panel unanimously recommended that CMP381 met Ofgem’s Urgency criteria and therefore recommended urgent treatment to Ofgem. The Panel’s recommendation was sent to Ofgem 17 December 2021 seeking an Ofgem decision by 5pm on 20 December 2021. The CUSC Panel also agreed that CMP381 should be assessed by a Workgroup.

7. In Flight Modification Updates

11201. PM talked the Panel through the progression of the in-flight modifications. The in-flight modifications can be found within the CUSC Panel papers pack on the National Grid ESO website via the following link:

<https://www.nationalgrideso.com/industry-information/codes/connection-and-use-system-code-cusc-old/meetings/cusc-panel-meeting-10>

11202. PM also presented the latest rolling 12-month cross-code view of all the Workgroups currently planned in and when Workgroup Reports and Draft Final Modification Reports are planned to be presented to Panel, and a view of modifications that are likely to be raised in the same period.

[CMP315 ‘TNUoS Review of the expansion constant and the elements of the transmission system charged for’](#) and [CMP375 ‘Enduring Expansion Constant & Expansion Factor Review’](#)

11203. PM advised the Panel that at the October 2021 Panel, a Panel Member proposed moving the priority from “High” to “Medium” on the basis that this may be better progressed as part of a broader review of TNUoS and noted that Ofgem have launched a Call for Evidence on this (1 October 2021 to 12 November 2021). Other Panel Members noted that, as this is just at the Call for Evidence stage, it would be more appropriate to revisit priority at the January 2022 Panel. However, the Panel did agree that this does not need to be progressed at current pace, but that the pace needs to be in line with that for other “High” priority Modifications. At the Workgroup meeting on 15 November 2021, the Workgroup agreed the need for 2 more meetings before the Workgroup Consultation is issued and therefore the timeline will be delayed. The CUSC Panel were asked to agree that the Workgroup Report is presented to May 2022 Panel rather than February 2022 Panel. The CUSC Panel agreed with this delay.

[CMP316 ‘TNUoS Arrangements for Co-located Generation Sites’](#)

11204. PM advised the Panel that the original plan was to issue the Workgroup Consultation on 13 December 2021; however, the Workgroup agreed that 1 more Workgroup meeting to clarify the solution would be required ahead of the Workgroup Consultation (which is now planned to be issued on 17 January 2022). The Workgroup is therefore seeking Panel approval that the Workgroup Report is presented to the April 2022 Panel instead of the March 2022 Panel. The Panel agreed to this delay.

CMP304 'Improving the Enhanced Reactive Power Service by making it fit for purpose'

11205. PM advised the Panel that Workgroups recommenced from 8 November 2021, with the next Workgroup scheduled for 15 December 2021. The next Workgroup meeting was originally scheduled for 1 December 2021; however, the Proposer had another meeting which took precedence. It is also felt prudent to include an additional Workgroup prior to the Workgroup Consultation being issued. Therefore, the Panel were asked to agree a one-month extension to the timeline, meaning the Workgroup Report will be presented to the March 2022 Panel rather than the February 2022 Panel. The Panel agreed to this extension.

CMP300 'Cost reflective Response Energy Payment for Generators with low or negative marginal costs'

11206. PM advised the Panel that the Workgroup met on 8 and 25 November 2021 to address each Term of Reference with the majority of the discussion focused on the following Term of Reference:

- *“Assess whether or not any future CfD BMUs are likely to come on line in the future and assess how it can be ensured that they are not negatively impacted”*

11207. PM stated that the Workgroup agreed that the Future Energy Scenarios (FES) data was the most appropriate data source to quickly help the Workgroup provide a view of “whether or not any future CfD BMUs are likely to come on-line in the future”. The baseline FES data will only consider the CfD auctions that have occurred and therefore does not provide a direct forward view of what technology may or may not receive a CfD or similar incentive in the future.

11208. PJ raised a question on why Battery Storage was also removed from the data set. PM took an action to confirm this with the ESO Workgroup member and provide additional wording in the Code Administrator Consultation to further explain this (**Post Meeting Note: The Second Code Administrator Consultation issued on 17 January 2022 included wording to explain why Battery Storage was also removed from the data set**)

11209. PM confirmed that the CMP300 Code Administrator Consultation would be published on 10 January 2022 and close on 10 February 2022 (**Post Meeting Note: published 17 January 2022 and will close 5pm on 16 February 2022**). The Draft Final Modification Report will be presented to the CUSC Panel on 25 February 2022.

8. Discussions on Prioritisation

11210. The Panel reviewed the Prioritisation Stack but had no further amendments to make. This can be found via the following link:

<https://www.nationalgrideso.com/industry-information/codes/connection-and-use-system-code-cusc-old/meetings/cusc-panel-meeting-10>

The full discussions on each Modification can be found [here](#).

9. Workgroup Reports

11211. No Workgroup Reports were presented to the CUSC Panel.

10. Draft Final Modification Reports

11212. No Draft Final Modification Reports were presented to the CUSC Panel.

11. Standing Groups

Transmission Charging Methodology Forum (TCMF)

11213. JD advised the Panel that the next TCMF will be held on 6 January 2022.

Joint European Stakeholder Group (JESG)

11214. GG advised that the JESG meeting was held on 14 December 2021. The meeting papers can be found via the following link:

<https://www.nationalgrideso.com/industry-information/codes/european-network-codes-old/meetings/jesg-meeting-14-december-2021>

Governance Standing Group

11215. No further updates.

EU Codes

11216. No further updates for the Panel.

12. Update on other Industry Codes

11217. AP advised the Panel that he had proposed a draft DCUSA change and that a consequential CUSC modification might follow as a result.

13. Relevant Interruptions Claim Report

11218. No further updates for the Panel.

14. Governance

11219. No further updates for the Panel.

15. Horizon Scan

11220. No further updates for the Panel.

16. Forward Plan Update

11221. No further updates for the Panel.

17. Expectations of new Panel

11222. TM and PM delivered a presentation on the expectations of the CUSC Panel. PM reminded the Panel that the duty of the Panel is to be the standing body to carry out the functions referred to in the Governance Rules (Section 8 of the CUSC). The following topics were discussed:

- Functions and duties of Panel member and alternates

- Voting
- Getting Prepared
- Panel ways of working
- Behaviours
- Prioritisation
- General

11223. CS raised a question with regard to the Chair's vote in the event of a tied vote. CS enquired on about the governance rules in the event that there is a tied vote on a Self-Governance Modification and if the Chair decides not to cast the vote. PM took an action to clarify this. ***(Post meeting Note: Under CUSC 8.11.4, the Chair is obliged to exercise their casting vote where there is a tied vote on a Self-Governance Modification (there is no such obligation for a tied vote on a Standard Governance Modification)***

18. AOB

General Discussion on Covid-19

11224. The Chair confirmed that the Panel will hold the January 2022 Panel meeting via Microsoft Teams as per government guidelines.

The next CUSC Panel meeting will be held on Wednesday 26 January 2022 via Microsoft Teams.