

Code Administrator Consultation Response Proforma**CMP288: Explicit charging arrangements for customer delays and backfeeds**

Industry parties are invited to respond to this consultation expressing their views and supplying the rationale for those views, particularly in respect of any specific questions detailed below.

Please send your responses to cusc.team@nationalgrideso.com by **5pm on 18 July 2022**. Please note that any responses received after the deadline or sent to a different email address may not receive due consideration.

If you have any queries on the content of this consultation, please contact Jennifer Groome Jennifer.Groome@nationalgrideso.com or cusc.team@nationalgrideso.com

Respondent details	Please enter your details
Respondent name:	Joshua Logan
Company name:	Drax Group Plc
Email address:	Joshua.Logan@drax.com
Phone number:	07934296838

I wish my response to be:

(Please mark the relevant box)

☒ Non-Confidential☐ Confidential

Note: A confidential response will be disclosed to the Authority in full but, unless agreed otherwise, will not be shared with the Panel or the industry and may therefore not influence the debate to the same extent as a non-confidential response.

For reference the Applicable CUSC (charging) Objectives are:

- That compliance with the use of system charging methodology facilitates effective competition in the generation and supply of electricity and (so far as is consistent therewith) facilitates competition in the sale, distribution and purchase of electricity;*
- That compliance with the use of system charging methodology results in charges which reflect, as far as is reasonably practicable, the costs (excluding any payments between transmission licensees which are made under and accordance with the STC) incurred by transmission licensees in their transmission businesses and which are compatible with standard licence condition C26 requirements of a connect and manage connection);*
- That, so far as is consistent with sub-paragraphs (a) and (b), the use of system charging methodology, as far as is reasonably practicable, properly takes account of the developments in transmission licensees' transmission businesses;*
- Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency *; and*

- e. *Promoting efficiency in the implementation and administration of the system charging methodology.*

***The Electricity Regulation referred to in objective (d) is Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (recast) as it has effect immediately before IP completion day as read with the modifications set out in the SI 2020/1006.*

Please express your views in the right-hand side of the table below, including your rationale.

Standard Code Administrator Consultation questions		
1	Do you believe that the Original Proposal better facilitates the Applicable Objectives?	Mark the Objectives which you believe Original solution better facilitates:
		Original <input type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> E
		<p>Relevant Objectives (a) , (b) , (c) & (e) – All Negative</p> <p>We do not believe the CMP288 Original Proposal better facilitates the Applicable Objectives. Our concerns are detailed below.</p> <p>Lack of Evidence</p> <p>Many developers, including ourselves, have been subject to delay charges already. Such charges are not transparent and are often unknown to the developer until a mod app has been accepted to delay a connection date.</p> <p>We remain unconvinced on how and what costs a TO actually incurs when a user delays. The TO's have not presented sufficient evidence of the costs that they incur or what charges may be included in the delay fee. In particular, with respect to financing costs, it's not clear how such costs arise as part of the price control mechanisms. Consequently, we are not convinced this modification "properly takes account of the developments in transmission licensees' transmission businesses", and so is negative against Applicable Objective (c).</p> <p>The proposal suggests that delay costs would be recovered through TNUoS should they not be targeted at the delaying party. We have seen no evidence highlighting what the materiality of these costs are across</p>

the network. Due to the lack of data, it's not clear by how much this modification would reduce TNUoS charges. This does not promote efficiency in the implementation of the CUSC arrangements and as such is negative against Applicable Objective (e).

Lack of Transparency

We believe the methodology for calculating delay charges should be set out in the CUSC Section 14 "Charging Methodologies". It is not appropriate for the delay charge methodology to be set out in the TO charging statements as proposed by CMP288.

The CUSC is where all other charges related to connections are set out. When a developer is assessing their costs and liabilities it is the CUSC they use to forecast costs, not the TO Charging Statements. This will result in developers still not being aware of how such delay charges are calculated and what the materiality would be for a given delay.

Furthermore, the TO Charging Statements are not subject to the Industry Code Governance arrangements and can be changed by the TO's with no industry consultation. This is concerning and doesn't follow the established governance process for all other changes to connection related charges and costs.

In addition to this, each TO has their own charging statement and they are inconsistent on their treatment and methodology for calculating delay charges. This introduces an additional complexity and lack of clarity for developers. Should Ofgem approve the modification and deem it appropriate for the methodology to be set out in the Charging Statements, as a minimum, we would expect the TO's to work together, in consultation with

industry, to develop a consistent set of arrangements. We acknowledge that the TO representative on this work group has committed to engaging with other TO's to maximise consistency across statements, which we welcome.

Without a clear methodology, developers are unable to appropriately assess the cost of delaying their connection date and will continue to face these unforecastable costs. The lack of transparency is concerning for developers of new generation and represents a material risk. This has a negative impact on competition (Applicable Objective a).

Misalignment with market arrangements and net zero ambitions

Given the current market arrangements and the interaction with the connection process, we are not convinced delay charges send a useful signal to generators.

Due to the timescales associated with getting connected to the network, a developer often has to initiate the connections process prior to successfully obtaining a CM or CfD agreement. Since a Final Investment Decision is usually dependent on securing an agreement, projects often have no choice but to delay their connection date if they are unsuccessful in the CM/CfD auctions. Therefore, to a certain extent, delay charges are unavoidable and do not send a useful signal to generators which they can respond to. This is negative against CUSC Objective (b).

Delay charges are penal costs which are largely unavoidable for developers of renewable generation. This additional risk of potential delay charges could act as a barrier to investment in renewable generation, and could

lead to higher bids in CfD auctions which increases the overall cost for end consumers.

Risk Asymmetry

This modification significantly alters the allocation of risk between transmission network monopolies and developers. CMP288 removes any delay risk from the TO's and places this entirely on generation developers. The risk should be shared more appropriately and TO's should be liaising more closely with developers to manage their construction projects efficiently. Not sharing this risk more equitably can have a negative impact on competition and is therefore negative against Applicable Objective (a).

In addition to this, we understand there have been instances where customer connections have been delayed by the TO. We would expect equivalent measures in place to ensure that developers would be sufficiently compensated. This should include any lost revenues as a direct result of the TO initiated delay.

Disincentive on communication between TO and Developer

Communication between the developer and TO throughout the connections process is critical and should largely mitigate any need for delay charges. TO's should consult with their customers before reaching a significant investment milestone in transmission works, or when reaching the point that project spend is about to significantly ramp up.

We believe this modification disincentivises co-ordination and communication as it gives TO's an automatic right to recover any delay costs. Focus should instead be on encouraging open and transparent communication, which

		<p>encourages TO's and developers to progress works concurrently. This is negative against applicable Objective (e).</p> <p>We would welcome a commitment from the TO's to provide quarterly updates on project spend, clearly setting out what the delay charge would be if the developer delays the final connection date.</p>
2	Do you support the proposed implementation approach?	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>We are deeply concerned that delay charges are already being included in contracts and levied prior to the approval of this modification. Fundamentally, this undermines the CUSC governance arrangements.</p> <p>We are unclear on what legal grounds the ESO/TO's are able currently to recover such costs from developers. We do not believe delay charges should have been levied prior to this modification being implemented.</p> <p>Should Ofgem reject CMP288, it would be appropriate to remove delay charge clauses from existing agreements. Any delay charges already paid may need to be reimbursed.</p> <p>Notwithstanding the above, should CMP288 be approved, we believe it should only apply to new contracts entered into after the implementation date. It should not be applied to current contracts which consequently request to delay. Developers may have chosen a different connection date in their original application if they had been aware of this commercial risk.</p>
3	Do you have any other comments?	N/A

