



## CUSC Modification Proposal Form

# CMP395: Cap BSUoS costs and Defer payment to 2023/24 to protect GB customers

**Overview:** To cap BSUoS per Settlement Period to £10/MWh from 1 October 2022 to 31 March 2023 and recoup the money in charging year 2023/24 to protect GB energy customers this winter. The liability to be carried by NGESO would be capped at £500m.

## Modification process & timetable



**Status summary:** The Proposer has raised a modification and is seeking a decision from the Panel on the governance route to be taken, requesting that it be treated as urgent and should proceed as such under a timetable agreed with the Authority.

### This modification is expected to have a:

**High Impact** - Customers, Suppliers and Generators.

**Medium Impact** - NGESO in carrying the unpaid BSUoS between charging periods.

<b>Proposer's recommendation of governance route</b>	Urgent modification to proceed under a timetable agreed by the Authority (with an Authority decision)	
<b>Who can I talk to about the change?</b>	<b>Proposer:</b> Scott Keen Saltend Power +44 7522 214676 <a href="mailto:scott.keen@tritonpower.co.uk">scott.keen@tritonpower.co.uk</a>	<b>Code Administrator Contact:</b> Paul Mullen 07794537028 <a href="mailto:Paul.j.mullen@nationalgrideso.com">Paul.j.mullen@nationalgrideso.com</a>

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## What is the issue?

Over the past few months a number of market factors have driven balancing costs even higher than we had seen over crisis caused by Covid, with gas security issues, French nuclear plant outages and high temperatures causing droughts. Some of these costs the Proposer believes were unforecastable and the only way for all parties to manage them is to add in a BSUoS risk premium, where they can. Due to the way BSUoS is settled, and individual periods seeing BSUoS of c£100/MWh, this risk premium is increasing. Likewise the direct costs to customers who see BSUoS as a pass through is also increasing at an unprecedented rate.

The Proposer argues that to protect customers this winter these charges need to be capped and recouped from 2023/2024 Charging Year after the current energy cost crisis has passed.

## Why change?

To try and protect energy customers during the energy cost crisis. The proposal offers the same protection Ofgem approved during covid by approving CMP345 and CMP381. The energy cost crisis needs some similar action to protect customers.

The reason why this change is required is that NGESO's actions in balancing the system are being impacted by factors outside the market's control and largely from crisis in connected markets more than the GB markets (lack of Russian gas, c50% of the French nuclear fleet being off, high temperatures and drought). Not only have average BSUoS costs risen to unforeseen levels (August forecast is now c£10/MWh for winter), but at an unprecedented rate (in March the winter forecast was c£5/MWh) and the Proposer expects this trend to continue this winter..

The rationale for choosing a £10/MWh cap is that this looks like roughly the median of the NGESO's most recent BSUoS price forecast for winter<sup>1</sup>. Arguably the price could be higher, but the price in the forecasts from August 2022 ticks up in April 2023. The Proposer is not wedded to this value, but a lower charge will have a bigger impact for customers and will also incentivise NGESO to be even more mindful of balancing costs.

Further, the within day volatility has seen prices swing between settlement periods from c-£0.50/MWh to c£170/MWh within just one day (20 July 2022). For generators in the (Balancing Mechanism (BM), this risk has to be priced into their offers, whilst for those trading it must be added to offer prices. Ofgem has already recognised this is an issue that needs addressing, so this is a short term fix to set the price near the forecast average, allowing parties trading bilaterally or via the BM to manage this now unacceptable winter risk.

As BSUoS feeds directly into the price cap for domestic customers, capping BSUoS will help Ofgem correctly set the price cap and do so at a lower level than would otherwise be the case. For other customers, not covered by the cap including all of British industry, many of whom pay BSUoS as a pass through, this change will provide some immediate discount on average energy costs. While not a huge relief, it is an element of the price the GB regulator has the power to set and every little will help.

The Proposer has added a cap to the total costs in line with CMP381, but inflated to £500m.

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<sup>1</sup> <https://data.nationalgrideso.com/backend/dataset/6294557e-6354-4ba8-a291-71683eccd71a/resource/36ef9048-1fe1-46bc-902a-08970ae1e7d6/download/bsuos-forecast-report.pdf>

## What is the proposer's solution?

- **Set a £10/MWh cap on BSUoS from 1 October 2022 until 31 March 2023** - the Proposer notes that other parties may feel alternative levels are appropriate but these need to be justified and evidenced.
- **Defer the additional BSUoS costs above the cap to the 2023/24 charging year**, using a similar mechanism approved under CMP381.
- **Recover the additional BSUoS costs above the cap from 1 April 2023 (based on forecast if actuals are not available)**
- **Recover an identical amount per day that is allocated to Settlement Periods on a chargeable volume weighted basis.** This is in line with the approach used for CMP373 and CMP381. Also consider a minimal charge on generators next year.
- **Limit the liability on NGESO to £500m** – This was £200m for CMP381 and the increased number reflects the higher prices that we are seeing in the market, notably when looking at forward energy prices. The Proposer suspects there may be days or Settlement Periods when the liability for NGESO could be quite high. Again, this number could be adjusted, but that should be a matter for Ofgem. Ofgem and NGESO know what loan/credit NGESO can access. It may also be possible for Ofgem to ask Her Majesty's Treasury if they could underwrite or directly fund, via a government loan, some of this risk in the emergency budget that is being promised. This could be seen as a step towards the potential role of the Future System Operator.

For the avoidance of doubt, if any part(s) of the additional external BSUoS costs incurred by the ESO associated with the energy crisis event during Charging Year 2022/23 is dealt with by the Authority as an 'Income Adjusting Event' then that part of the costs will be recovered according to the route determined, in that case, by The Authority and will not (unless agreed otherwise by The Authority) be recovered equally over all the settlement periods during 2023/24. Therefore, there can be no risk of 'double recovery/double billing' etc., of any energy crisis related BSUoS cost item(s) under this proposal and anything The Authority might, subsequently, determine.

The limit on the BSUoS costs that could be deferred would be set at £500m. NGESO will also provide a weekly report of the percentage utilisation of the deferred amount, moving to daily reporting when 60% of total support has been used. The scheme will end if the £500m limit has been reached. This is consistent with the proven approach adopted for CMP345 and CMP350 and updated to reflect the exceptional prices now being seen in the market. The £500m cap includes the ESO's financing and administration costs.

## Draft Legal Text

### "14.30.6

*The External BSUoS Charges for each Settlement Period (BSUoSEXTjd) are calculated by taking each Settlement Period System Operator BM Cash Flow (CSOBMj) and Balancing Service Variable Contract Cost (BSCCVj) and allocating the daily elements on a MWh basis across each Settlement Period in a day but shall, from the first settlement period after CMP[xxx] is implemented until the last settlement period on 31<sup>st</sup> March 2023 only, be capped at £10/MWh, there by excluding any and all **Additional System Management Costs**.*"

*"14.30.5 The Total BSUoS charges for each Settlement Period (BSUoSTOTjd) for a particular day are calculated by summing the external BSUoS charge*

*(BSUoS EXTjd) and internal BSUoS charge (BSUoS INTjd) for each Settlement Period which, for the year 1<sup>st</sup> April 2023 to 31<sup>st</sup> March 2024 only, shall include an equal share (per Settlement Period, for all days in the year) of any **Additional System Management Costs** incurred in 2022/23 along with any associated financing cost incurred by **The Company** as agreed by **The Authority**.”*

The text for the liability cap can be based on that used for CMP381.

## What is the impact of this change?

### Proposer's assessment against CUSC Charging Objectives

Relevant Objective	Identified impact
(a) 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;	<b>Positive</b>  At the current time there is a risk Consumers, Suppliers and Generators could go out of business as they try to manage these costs.
(b) 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);	<b>Neutral</b>
(c) 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;	<b>Positive</b>  Developments have made BSUoS charges a significant risk to energy companies and customers, this will help protect them.
(d) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency *; and	<b>Neutral</b>
(e) Promoting efficiency in the implementation and administration of the system charging methodology.	<b>Neutral</b>

**\*\*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.**

## Proposer's assessment of the impact of the modification on the stakeholder / consumer benefit categories

Stakeholder / consumer benefit categories	Identified impact
Improved safety and reliability of the system	<p><b>Positive</b></p> <p>It is important that we maintain as many generators as we can to maintain the security of the GB network. Without this cap there is a risk generators could go out of business in a very tight winter. This will reduce supply security in GB at a time when GB and the whole of Europe is facing very tight system margins.</p> <p>Customers that are (or could be) providing DSR services they will also be able to price their actions based on the price of energy and not need to guess the value of BSUoS (or factor in the associated, higher, risk premia).</p>
Lower bills than would otherwise be the case	<p><b>Positive</b></p> <p>It is customers who should benefit the most from this change. Everything else being equal, they will certainly face higher prices this winter if this Mod is not implemented, with some customers directly exposed to BSUoS and others will have the costs reflected in their price capped rate. Ofgem has a primary duty under the Electricity Act 1989 (as amended) to protect the interest of customers and it should therefore support this change as an interim measure in customers' interests.</p>
Benefits for society as a whole	<p><b>Positive</b></p> <p>The UK is facing an unprecedented energy price crisis and without this intervention (and others) we will see domestic customers struggling, businesses shutting and the forecast recession worsening. While the energy market cannot totally avoid the influences of external markets, we can try to protect customers where we can by shifting costs from this winter to next year, in the hope that by then the energy market situation will have improved.</p>
Reduced environmental damage	<p><b>Neutral</b></p>
Improved quality of service	<p><b>Neutral</b></p>

## When will this change take place?

### Implementation date

1 October 2022

### Date decision required by

By no later than 30 September 2022

### Implementation approach

The Proposer requests that the change, if approved, is applied prior to the 1 November 2022 BSUoS bills (for the preceding month of October 2022) issued by the ESO

### Proposer's justification for governance route

Governance route: Urgent modification to proceed under a timetable agreed by the Authority (with an Authority decision)

Given the materiality, the change will need to be assessed by a Workgroup using the work done by CMP381 as a basis and consideration should be made if a Workgroup Consultation is necessary

This proposal should proceed to an Urgent timescale such that the change, if approved, is applied prior to the 1<sup>st</sup> November 2022 BSUoS bills (for the preceding month of October 2022) issued by the ESO so they are not impacted by the energy cost crisis Additional System Management Costs incurred by the ESO (with the requisite amounts deferred to 2023/24). If this proposal is approved prior to 26<sup>th</sup> August then we believe it may also be possible for this change to be reflected in the customers' price cap that Ofgem is due to announce for the three month period starting on 1<sup>st</sup> October.

In seeking urgency, we are mindful of Ofgem's Urgency Criteria<sup>2</sup>.

In our view, the unprecedented energy cost crisis has led to exceptional and substantial additional BSUoS costs that could not be reasonably forecast by the ESO or market participants, including customers. It is "**a current issue that if not urgently addressed**" will have "**a significant commercial impact on parties, consumers or other stakeholder(s)**" and could give rise to "**a significant impact on the safety and security of the electricity and/or gas systems**" and therefore meets Ofgem's Urgency Criteria (a) and (b). The Proposer's view against each of these criteria is as follows:

### Ofgem Urgency Criteria (a)

The '**significant commercial impact**' arises for both Suppliers and Generators (as well as customers who directly – or indirectly - pay BSUoS) as they could not have forecasted or expected such surges in BSUoS. Under the status quo arrangements those parties who pay BSUoS for the most part will be unable to immediately recover the amount concerned via retail tariff changes (for Suppliers) given price caps (which will defer the October-December 2022 BSUoS costs, based on data up to August 2022, to January-March 2023 and so on) and fixed price contracting etc., or via wholesale price increases (for Generators). These parties (and customers who directly pay BSUoS) face a significant commercial impact from this current issue (whilst customers who pay indirectly, for example, via the retail price cap face paying the higher BSUoS cost from October-December 2022 in January-March 2023 – so still this winter or in spring for the January-March period).

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<sup>2</sup> <https://www.ofgem.gov.uk/publications/ofgem-guidance-code-modification-urgency-criteria-0>

The ‘**significant commercial impact**’ on customers is most keenly seen on industrial customers who often see BSUoS as a pass through and many of whom compete in international markets. In some of those markets’ energy prices are being capped. For them anything that reduces prices must be helping their competitive position in their own markets. Further lowering costs to sectors such as food manufacturing will also help to marginally ease the inflationary pressure the whole economy is witnessing.

### Ofgem Urgency Criteria (b)

The ‘**significant impact on the safety and security**’ of electricity arises, in particular for generators in GB, as they are faced with these sudden and substantial additional costs which they are unable to fully recover in the wholesale market given forward trading timescales. This, in turn, could threaten the commercial viability of some of those generators who, in these times of significant system management issues for the ESO (hence the highly abnormal additional BSUoS costs), could cease trading / operating which, could impact on the security of the GB electricity system.

Those generators who are active in the BM will be forced to “assume the worst” and price in BSUoS risks. Given concerns that NGESO will need most available generation over winter in some periods, this will significantly add to BSUoS costs in itself, potentially creating an inflationary impact on BSUoS on top of the wider market pressures.

The energy cost crisis is hitting GB customers today and it could get worse. While BSUoS is not a huge amount on bills, a cap would at least provide some downward pressure both directly and via the impact of a BSUoS cap on wholesale prices.

We have presented the idea informally at the August TCMF, but it has not been possible to present this proposal formally as the issue is urgent. We apologise to stakeholders for this, but we are certain that they will appreciate why it has not been possible in this case. Further, the market has had BSUoS price caps in the past, so parties will be familiar with the concept.

### Interactions

- |   |   |  |                                |
|---|---|--|--------------------------------|
| <input type="checkbox"/> Grid Code              | <input type="checkbox"/> BSC                              | <input type="checkbox"/> STC                 | <input type="checkbox"/> SQSS  |
| <input type="checkbox"/> European Network Codes | <input type="checkbox"/> EBR Article 18 T&Cs <sup>3</sup> | <input type="checkbox"/> Other modifications | <input type="checkbox"/> Other |

None identified

### Acronyms, key terms and reference material

Acronym / key term	Meaning
BM	Balancing Mechanism
BSC	Balancing and Settlement Code
BSUoS	Balancing Services Use of System (charges), as set out in Section 14 of the CUSC.
CMP	CUSC Modification Proposal
CUSC	Connection and Use of System Code

<sup>3</sup> If your modification amends any of the clauses mapped out in Exhibit Y to the CUSC, it will change the Terms & Conditions relating to Balancing Service Providers. The modification will need to follow the process set out in Article 18 of the Electricity Balancing Guideline (EBR – EU Regulation 2017/2195) – the main aspect of this is that the modification will need to be consulted on for 1 month in the Code Administrator Consultation phase. N.B. This will also satisfy the requirements of the NCER process.

EBR	Electricity Balancing Regulation
ESO	Electricity System Operator (often referred to as 'NGESO' or more formally in the CUSC as 'The Company')
STC	System Operator Transmission Owner Code
SQSS	Security and Quality of Supply Standards
T&Cs	Terms and Conditions
TCMF	Transmission Charging Methodologies Forum

**Reference material**

- None provided