

Second Code Administrator Consultation

CMP344:

Clarification of Transmission Licensee revenue recovery and the treatment of revenue adjustments in the Charging Methodology

Overview: CMP344 proposes that the additional revenue allowances for OFTOs in relation to IAEs should be recovered from all demand users, rather than the generator directly affected .

Modification process & timetable



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

Have 20 minutes? Read the full [Second Code Administrator Consultation](#)

Have 30 minutes? Read the full Second Code Administrator Consultation and Annexes.

Status summary: On 5 May 2021, the Authority [sent back CMP344](#) and directed that the CUSC Panel re-submit the Final Modification Report (FMR). The CUSC Panel on 28 May 2021 agreed next steps and set new Terms of Reference and asked for the Workgroup to reconvene to address these. The Workgroup have addressed these Terms of Reference and we are now consulting on this proposed change.

This modification is expected to have a: **High impact** on Transmission Owners, Transmission Users including Generators and Suppliers; and a **Medium impact** on the ESO

Governance route This modification has been assessed by a Workgroup and Ofgem will make the decision on whether it should be implemented.

Who can I talk to about the change?

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How do I respond?

Send your response proforma to cusc.team@nationalgrideso.com by 5pm on 17 January 2023

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Executive summary

CMP344 proposes that the additional revenue allowances for OFTOs in relation to IAEs should be recovered from all demand users, rather than the generator directly affected.

What is the issue?

The defect, that was set out in the Original Proposal Form (see Annex 1) is as follows:

Recovery of “Maximum Allowed Revenue” (MAR)

While it is clear that the intent of Section 14 is to recover the MAR of onshore and offshore transmission owners, this is not set out explicitly in the CUSC.

Treatment of revenue associated with unforeseen or unforeseeable events

Section 14 of the CUSC does not set out the basis on which revenue adjustments associated with actual costs incurred and costs saved for a Transmission Licensee that occur within price control periods are treated. Within price control revenue adjustments can occur e.g. as a result of Income Adjusting Events (IAEs) - *the Workgroups held post send-back of CMP344 agreed that the scope of CMP344 will be limited to IAEs.*

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

Proposers solution:

Scope limited to IAEs approved by the Authority; and

For any IAEs approved in a particular year, the OFTO revenue will be adjusted and recovered from all demand users (via the Transmission Demand Residual¹ in the following year) rather than the generator directly affected.

Implementation date:

1 April 2023

Summary of potential alternative solution(s) and implementation date(s):

No alternative solutions were discussed by the Workgroup.

Workgroup conclusions:

The Workgroup concluded by majority that the Original better facilitated the Applicable Objectives than the Baseline.

First Panel Recommendation:

The CUSC Panel recommended by majority that the Original better facilitated the CUSC Objectives than the Baseline (the arrangements currently set out in CUSC).

¹ **“Transmission Demand Residual”** definition (introduced by [CMP340](#)) to be implemented on 1 April 2023 and states: “the total sum of annual Transmission Network Use of System revenue to be recovered through the Transmission Demand Residual Tariffs from Final Demand Sites and Unmetered Supplies only”

What is the impact if this change is made?

This modification is designed to clarify the arrangements that enable Transmission Owners both onshore and offshore to recover the costs allowed under the price control and the costs that occur as a result of IAEs. As recovery is proposed via the Transmission Demand Residual, there will be an impact on demand users and ultimately end consumers tariffs

Independent analysis carried out by Cornwall Insight (and discussed further in the “Workgroup Discussions following Authority decision” section of this document) concluded that if an IAE were to occur under CMP344, consumers would pay more in the short term. However, they argued that without CMP344, generator risk premia would increase as generators would perceive an increased IAE risk and in the long-run consumers would still be detrimentally impacted.

Interactions

None

What is the issue?

The defect, that was set out in the Original Proposal Form (see Annex 1) is as follows:

Recovery of “Maximum Allowed Revenue” (MAR)

Section 14.14.1 sets out the nature of the cost to be recovered from Users.

Section 14.14.2 specifies that Transmission Network Use of System Charges (TNUoS) are set to recover the Maximum Allowed Revenue (MAR)

While it is clear that the intent of Section 14 is to recover the MAR of onshore and offshore transmission owners, this is not set out explicitly in the CUSC.

Treatment of revenue associated with unforeseen or unforeseeable events

Section 14 of the CUSC does not set out the basis on which revenue adjustments associated with actual costs incurred and costs saved for a Transmission Licensee that occur within price control periods are treated. Within price control revenue adjustments can occur e.g. as a result of Income Adjusting Events (IAEs) - *the Workgroups held post send-back of CMP344 agreed that the scope of CMP344 will be limited to IAEs.*

What is the solution?

Proposer’s solution:

- Scope limited to IAEs approved by the Authority; and
- For any IAEs approved in a particular year, the OFTO revenue will be adjusted and recovered from all demand users (via the Transmission Demand Residual² in the following year) rather than the generator directly affected.

Workgroup considerations prior to send-back of CMP344 by the Authority

The Workgroup convened 3 times to discuss the perceived issue, detail the scope of the proposed defect, devise potential solutions and assess the proposal in terms of the Applicable Code Objectives. There was agreement from the Workgroup on the Proposer’s main points and this section of the report reflects this and further discussions.

The Workgroup held their Workgroup Consultation between 2 November and 23 November 2020 and received 3 responses. The full responses can be found Annex 4. A summary of these responses can be found in the “Workgroup Consultation Summary” section of this document.

² “**Transmission Demand Residual**” definition (introduced by [CMP340](#)) to be implemented on 1 April 2023 and states: “the total sum of annual Transmission Network Use of System revenue to be recovered through the Transmission Demand Residual Tariffs from Final Demand Sites and Unmetered Supplies only”

OFTO licence and price control considerations

The Workgroup identified that specific reference to OFTO's in Section 14 is needed to establish when the costs are set. The Workgroup noted clarification was needed if the IAE³ means that the MAR can't be affected, then how can demand be recovered. The Workgroup held a discussion around what is allowed to be recovered under the OFTO licence. Within the Policy Decision – Income Adjusting Events in Offshore Transmission Owner Licences from 2018, the IAE provisions are set out in paragraphs 14 to 24 of Amended Standard Condition E12-J3 (Restriction of Transmission Revenue: Allowed Pass-through Items) (the IAE Condition) of the OFTO Licence.

Paragraph 15 of the IAE Condition defines what constitutes an IAE, as follows:

An income adjusting event in 'relevant year t' may arise from any of the following:

- a. *an event or circumstance constituting force majeure under the STC;*
- b. *an event or circumstance resulting from an amendment to the STC not allowed for when allowed transmission owner revenues of the Licensee were determined for the relevant year t, and:*
- c. *an event or circumstance other than listed above which, in the opinion of the Authority, is an income adjusting event and is approved by it as such in accordance with paragraph 21 of this licence condition,*

where the event or circumstance has, for relevant year t, increased or decreased costs and/or expenses by more than [£500,000]/[£1,000,000] (the "threshold amount").

Paragraph 15 c. of the IAE Condition is further assessed via these factors:

- 1) whether the OFTO knew of the event or circumstance before it arose or ought to have known of it;
- 2) whether the risk of damage of that type was reasonably foreseeable (even if the particular way in which the damage has occurred may not have been);
- 3) whether there are nevertheless exceptional factors in the relevant case that mean that the event or circumstance, or its consequences, could not have been reasonably foreseeable, and
- 4) the ability of the OFTO to manage the risk or impact by putting in place and pursuing risk management arrangements such as insurance, commercial recourse against third parties and/or operating practices.

There are sections in the OFTO licence which direct to IAE's and where they are permitted and the IAE's for Onshore are permitted under the TO licences. It was confirmed under 14.14.2, a Maximum Allowed Revenue (MAR) defined for these activities and those associated with pre-vesting connections is set by the Authority at the time of the Transmission Owners' price control review for the succeeding price control period. Transmission Network Use of System Charges are set to recover the Maximum Allowed Revenue as set by the Price Control (where necessary, allowing for any Kt adjustment for

³ As detailed in The IAE provisions are set out in paragraphs 14 to 24 of Amended Standard Condition E12-J3 (Restriction of Transmission Revenue: Allowed Pass-through Items) (the IAE Condition) of the OFTO Licence

under or over recovery in a previous year net of the income recovered through pre-vesting connection charges).

ESO's letter dated 27 July 2017

The Proposer's solution looks specifically at amending Section 14 'Charging Methodologies' of the CUSC. 14.14.1 and 14.14.2, as these sections set out the MAR. The CUSC currently doesn't have any arrangements for revenue adjustments and the solution seeks to change the MAR to ensure it is clear for both Onshore and Offshore TO's and what will need to be paid. If the price control settlement allows for revenue adjustment, then the MAR can be recovered by the Onshore TO's.

The MAR set at the time of the price control can be recovered, it is not the intention to defer anything as this should be recovered by the TO's. It was noted by the Workgroup that the IAE means that the MAR is unable to be affected, therefore not able to be recovered through demand. The Workgroup agreed that the ambiguity needs to be removed and the definition of costs clear.

The ESO revenue team attended workgroup meeting 2 to discuss the letter. The Workgroup concluded post discussion that whilst the letter was useful when published, the need for the CUSC to be updated is still relevant. As such, the Original Solution was continued and is at the time of writing being developed further.

The Workgroup also considered Ofgem's policy decision on 28 November 2018 (Paragraph 4.6)⁴ that industry needed to address this issue regarding Income Adjusting Events. This had not been undertaken until this proposal was raised and sent to be developed by this Workgroup.

Recovery via the Transmission Demand Residual

The Proposer used the example of the Sloy⁵ income adjusting event of 7 July 2009 (and subsequent determination). Whilst this was an IAE, this was recovered through MAR. The recovery in this instance was not targeted at local users, and as such could be used as an example of a precedent, on which this modification follows, as recovery through the TDR would be across all demand users, and not targeted specifically at local users. Recovery through the TDR is the fairest, least distortive method of recovery due to this, and this is further elaborated on page 8, where the Workgroup's considerations on interactions with other Transmission Demand Residual modifications is explored, and also below in the consideration of Offshore Local Circuit Tariffs.

Offshore Local Circuit Tariffs

The Workgroup agreed with the Proposer's solution, that the methodology for Offshore local circuit tariffs should be brought in line with the methodology for Onshore local circuit tariffs as unforeseeable events are not included in the calculations. The Proposer stated that these are costs associated with the total system, and as such should be recovered as part of the demand residual to avoid discriminatory treatment of particular users.

⁴ <https://www.ofgem.gov.uk/publications-and-updates/offshore-transmission-generic-ofto-licence-and-guidance-tr6>

⁵ <https://www.ofgem.gov.uk/ofgem-publications/52604/tirg-sloy-determination-pdf>

Interactions with current ongoing Transmission Demand Residual modifications

The Workgroup took into consideration the interactions this modification has with current ongoing Transmission Demand Residual (TDR) modifications. Workgroup members agreed that this does overlap with some of the TDR modifications as this modification would require a new parameter to be introduced into Section 14. If the baseline hadn't changed as a result of the TDR modification decision (which is still being considered by Ofgem at the time of publication), this extra parameter would still need to be added to the TDR.

This modification is consistent with the direction of travel of the TDR modifications which have come about as part of the Targeted Charging Review SCR. Whilst there will be an addition to TDR recovery as part of this modification, it is neither contingent on nor impactful of the ongoing work in that area.

Post Workgroup Consultation Considerations

The Workgroup noted the EDF submission with regards to incentives on parties to maintain economic and transmission arrangements. The submission highlights that these incentives remain undiminished in event of CMP344 being approved by the Authority. The Workgroup recognised this and supported the input from EDF on this matter.

Tariff Analysis

Post Workgroup consultation and post Workgroup Vote, the ESO provided Tariff Analysis which illustrates the potential impact of CMP344 on the demand residual, based on figures from the current price control. The Workgroup noted that this analysis was being prepared, but did not review this analysis in time for publication of this report. This analysis is contained as an Annex to this report (Annex 5).

The Workgroup noted that there would be a corresponding benefit to consumers from the reduction in the risk associated with income adjusting events which is currently recovered through local charges. This reduction in risk should be reflected in a lower cost of capital for Offshore projects, and potentially in lower CfD prices. This should result in the removal or uncertainty over cost recovery of Income Adjusting Events, manifesting a cost of capital benefit for Offshore TOs.

Workgroup Consultation Summary

CMP344 Workgroup Consultation was opened on 2 November 2020, and closed on 23 November 2020. Responses were received from 8 parties:

- RWE
- EDF
- Vattenfall
- Orsted
- Scottish Power Renewables
- National Grid ESO
- Statkraft
- SSE

Standard Workgroup Consultation questions

1	Do you believe that the CMP344 Original Proposal better facilitates the Applicable Objectives?	<p>Of the 8 responses received, 7 responses were fully supportive.</p> <p>The ESO, were supportive of the consistency the modification would bring but noted that it may not better facilitate objective b due to concerns re: non cost reflectivity in recovery.</p> <p><i>“Our concern is that this change will mean any adjustments associated with these costs will no longer be recovered via the user of the assets but rather through adjustments to the Demand Residual. This will ultimately impact end consumers tariffs which may not result in cost reflective recovery, which therefore may not better facilitate objective b”</i></p>
2	Do you support the proposed implementation approach?	<p>All 8 responses were supportive of the implementation approach of April 2021 to some degree. Several responses highlighted that they believe that the modification should be implemented in line with the next price control period.</p> <p>The ESO highlighted that April 2021 would be achievable if a decision was made in enough time to finalise tariffs ahead of 31 January 2021. April 2022 was highlighted as an alternative date.</p> <p>EDF noted that if April 2021 could not be achieved, it should be implemented later, but did not specify a date.</p>
3	Do you have any other comments?	EDF provided commentary on the incentive to ensure good manufacture and installation of

		offshore cable remains regardless of whether this modification is implemented or otherwise.
4	Do you wish to raise a Workgroup Consultation Alternative Request for the Workgroup to consider?	No alternatives were raised.

Legal text

The legal text for this change can be found in Annex 3.

What is the impact of this change?

In the view of the Workgroup, CMP344 will impact:

- i) **Onshore TOs:** It will make it clear that onshore TOs are allowed to recover the costs that are set at each price control review and allow the recovery of costs related to IAEs through adjustments to the Transmission Demand Residual. This will improve certainty over cost recovery for onshore TOs;
- ii) **Offshore Transmission Owners (OFTOs):** It will make it clear that OFTOs can recover the costs defined at the time of the asset transfer to the OFTO and allow the recovery of costs related to IAEs through adjustments to the Transmission Demand Residual. This will improve certainty over cost recovery for OFTOs;
- iii) **Onshore network users:** It will ensure that onshore network users are not exposed to costs associated with the recovery of IAEs as a result of changes to locational transmission charges. This will ensure certainty over transmission costs for onshore network users;
- iv) **Offshore Network Users:** It will make it clear that OFTOs can only recover the costs of the network through local charges from the date of the asset transfer and for the life of the OFTO “price control period”. It will also ensure that offshore network users are not exposed to costs associated with the recovery of IAEs as a result of changes to locational transmission charges. This will ensure certainty over transmission costs for offshore network users;
- v) **Demand Users:** As allowed recovery is proposed via the Transmission Demand Residual, there will be an impact on demand users and ultimately end consumers tariffs; and
- vi) **Consumers:** Cornwall Insight undertook some independent analysis to consider the implications that CMP344 would have for TNUoS charges and the effects on consumers. This is discussed further in the “Workgroup Discussions following Authority decision” section of this document. Cornwall Insight concluded that if an IAE were to occur under CMP344, consumers would pay more in the short

term. However, they argued that without CMP344, generator risk premia would increase as generators would perceive an increased IAE risk and in the long-run consumers would still be detrimentally impacted.

Please refer to Annex 1 (CMP344 Proposal Form) for the Proposer's assessment against the CUSC Charging Objectives.

Workgroup Vote

The Workgroup met on 24 November 2020 to carry out their Workgroup Vote, which can be found in Annex 6 of this report. The table below provides a summary of the Workgroup members view on the best option to implement this change.

The Applicable CUSC (charging) Objectives are:

CUSC charging objectives

- 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) 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);
- 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;
- d) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency *; and
- e) To promote efficiency in the implementation and administration of the use of system charging methodology

*Objective (d) refers specifically to European Regulation 2009/714/EC. Reference to the Agency is to the Agency for the Cooperation of Energy Regulators (ACER).

The Workgroup concluded by majority that the Original better facilitated the Applicable Objectives than the Baseline.

Workgroup Member	Company	BEST Option?	Which objective(s) does the change better facilitate? (if baseline not applicable)
Bill Reed	RWE	Original	A,B,E
James Stone	ESO	Baseline	N/A
Garth Graham	SSE	Original	A,B,E
Julian Werrett	Vattenfall	Original	A,E
Ricardo Da Silva	Scottish Power	Original	A,B,E
Andrew Ho	Orsted	Original	A,B,E

First Code Administrator Consultation summary

The Code Administrator Consultation was run from 1 December 2020 to 5pm on 22 December 2020 and we received 4 responses. A summary of the responses can be found in the table below, and the full responses can be found in Annex 7.

Code Administrator Consultation summary

Question

Do you believe that the CMP344 Original facilitates the Applicable CUSC Objectives?

Of the 4 responses, 2 responses stated support for CMP344 Original Solution (SSE, Vattenfall).

National Grid ESO stated that they did not believe the solution better facilitates the applicable CUSC objectives as they believe the solution does not “consider the principle that different assets being treated in a different way is not necessarily unfair nor discriminatory but rather focuses solely on the alignment and identical treatment of generator costs i.e. how costs associated with Income Adjusting Events (IAEs) should be targeted for recovery”.

One response provided no comment (NGET).

Do you support the proposed implementation approach?

SSE and Vattenfall supported the implementation approach, whilst the ESO stated that April 2021 is feasible if a decision is received by the Authority on time. However, if the decision was too late to allow for tariff forecasting, the implementation date should be pushed out to April 2022.

NGET provided a potential addition to the legal text.

Do you have any other comments?

NGET raised two issues with legal text

Legal text issues raised in the consultation (Direct quote from NGET)

The proposed legal text implies that allowed revenues for Onshore TO cannot change once set, other than for under- or over-recoveries.

This is clearly not the intent of the amendment and does not reflect the nature of the Onshore TO price controls.

We propose some further additions to the proposed legal text for clause 14.14.2, as follows, to avoid this misinterpretation.

“14.14.2

A baseline revenue defined for these activities and those associated with pre-vesting connections is set by the Authority for the Onshore Transmission Owners revenue at the time of the Onshore Transmission Owners’ price control review for the succeeding price

control period.

The base revenue for an Offshore Transmission Owner is set at the point of the asset transfer of its Offshore Transmission System. Transmission Network Use of System Charges are set to recover the Maximum Allowed Revenue (MAR) as set and revised by the Price Control for Onshore Transmission Owners and the point of asset transfer for Offshore Transmission Owners (where necessary, allowing for any Kt adjustment for under or over recovery in a previous year net of the income recovered through pre-vesting connection charges)."

We note that the critical term "Price Control" also needs to be defined. To avoid doubt we propose that the definition should make clear that for Onshore TOs this includes amendments to maximum allowed revenues made during the price control period pursuant to the Authority's Annual Iteration Process as defined in the Onshore TO's licences.

CUSC Panel on 8 January 2021 were asked to consider these changes and agree next steps. Options for CUSC Panel were to:

- Agree that these changes are typographical and ask that legal text be amended prior to sending the Final Modification Report to Ofgem; or
- Agree that some or all of these changes are not needed; or
- Direct the CMP344 Workgroup to review these changes.

First Panel recommendation vote

The CUSC Panel met on the 8 January 2021 to carry out their recommendation vote.

They assessed whether a change should be made to the CUSC by assessing the proposed change and any alternatives against the code objectives. The full vote can be found below.

Ahead of the vote taking place, the Panel considered the legal text amendments proposed as part of the Code Administrator Consultation and agreed that they were not required for CMP344. However, the Panel noted NGET's concern that the proposed legal text implies that allowed revenues for Onshore TO cannot change once set, other than for under- or over-recoveries. Panel clarified that, in their view, the current wording in CMP344 does not preclude the Onshore TO's allowed revenue changing from what is set originally by the Price Control.

Applicable CUSC Charging Objectives

(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; Facilitating effective competition in the generation and supply of electricity, and (so far as is consistent therewith) facilitating such competition in the sale, distribution and purchase of electricity;

(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);

(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;

(d) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency. These are defined within the National Grid Electricity Transmission plc Licence under Standard Condition C10, paragraph 1 *; and

(e) Promoting efficiency in the implementation and administration of the use of system charging methodology.

*Objective (d) refers specifically to European Regulation 2009/714/EC. Reference to the Agency is to the Agency for the Cooperation of Energy Regulators (ACER).

CMP344 Vote

Vote 1: Does the Original facilitate the objectives better than the Baseline?

Panel Member: Andy Pace

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Overall (Y/N)
Original	Neutral	No	Neutral	Neutral	Neutral	No
Voting Statement						
This modification places the impact of any income adjusting events within a price control period fully on consumers. This will reduce the cost reflectiveness of charges and therefore does not better facilitate applicable objective (b). We therefore prefer the baseline option.						

Panel Member: Cem Suleyman

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Overall (Y/N)
Original	Yes	No	Neutral	Neutral	Yes	Yes
Voting Statement						
On balance I believe CMP344 overall better facilitates the Applicable CUSC Objectives. There is agreement that the modification is beneficial in that it clarifies the CUSC arrangements and ensures consistent treatment between onshore and offshore assets. The only potential downside relates to the reduction in cost reflectively. However, I am persuaded that this reduction in cost reflectivity does not have a significant adverse impact on competition and market efficiency.						

Panel Member: Garth Graham

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Overall (Y/N)
Original	Yes	Yes	Neutral	Neutral	Yes	Yes
Voting Statement						
<p>Having read the CMP344 report and consultation responses I believe that this modification; by ensuring that assets (and the income adjusting costs associated with them) are treated in the same way; will better facilitate effective competition, ensure cost reflective pricing and the administration of the charging arrangements. Therefore, overall, I believe that CMP344 is better than the Baseline.</p> <p>There should also be a positive consumer impact with CMP344 as the risk premia that offshore generators have to incur for the possibility of an income adjusting event occurring will be removed, thus lowering the cost to consumers overall (even when taking into account the possible offsetting actual cost should such an event occur which necessitates the costs being recovered from demand).</p> <p>For a generator connecting to the NETS, be that onshore or offshore, they should; where an income adjusting event occurs (rare though that may be); be treated in the same way and CMP344 does this.</p> <p>There are, for example, existing (and future) onshore located generators whose transmission network will include sub-sea cables to other parts of the NETS. I believe it would be discriminatory (and thus detrimental to competition and cost reflectivity) to continue to treat (that is to charge) those onshore generators differently to offshore generators with respect to an income adjusting event situation (that CMP344 seeks to address).</p> <p>I'm also mindful of the growth in integrated networks offshore and interlinking (such as via the CMP242 solution or with interconnectors) that are envisaged / planned in the short, medium and long term as, for example, was shown by the launch last summer of the Offshore Transmission Network Review by the Energy Minister for BEIS which was warmly welcomed at the time by, for example, both the CEO of Ofgem and the Executive Director of NGENSO, as per the announcement at: https://www.gov.uk/government/publications/offshore-transmission-network-review/offshore-transmission-network-review-terms-of-reference</p> <p>This Offshore Transmission Network Review work, by NGENSO, Ofgem and BEIS, has continued since last summer as, for example, the joint BEIS/Ofgem announcement of 18th December 2020 sets out: https://www.ofgem.gov.uk/system/files/docs/2020/12/open_letter_response_final_0.pdf</p> <p>In passing I note that CMP344, in my view, is supportive of the objective of the Offshore Transmission Network Review work being undertaken by NGENSO, Ofgem and BEIS, namely:</p>						

“To ensure that the transmission connections for offshore wind generation are delivered in the most appropriate way, considering the increased ambition for offshore wind to achieve net zero. This will be done with a view to finding the appropriate balance between environmental, social and economic costs.”

Panel Member: Grace March

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Overall (Y/N)
Original	Yes	Yes	Neutral	Neutral	Yes	Yes

Voting Statement

Over or under-recovery cannot be recovered through forward-looking charges and should not be sending a signal to Users. Costs due to IAEs should not be focussed only on those Users affected so recovery through the TDR is the least distortive and most cost-reflective method.

Panel Member: Joseph Dunn

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Overall (Y/N)
Original	Yes	Yes	Neutral	Neutral	Yes	Yes

Voting Statement

Better meets ACO (a) - the Original will ensure no unexpected events cause sharp increases in costs, competition will be improved

Better meets ACO (b) the Original will clarify the arrangements and ensuring consistent application between onshore and offshore with respect to unexpected and unforeseen events

Better meets ACO (e): the proposal will avoid ambiguity of cost recovery currently in existence in the CUSC which should improve implementation and efficiency by the ESO.

Neutral to ACO (c) and (d)

Panel Member: Jon Wisdom

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Overall (Y/N)
Original	Yes	No	Neutral	Neutral	Yes	No

Voting Statement

On balance the CMP344 original solution does not better facilitate the applicable CUSC objectives. This is because the solution does not consider the principle that different assets being treated in a different way is not necessarily unfair nor discriminatory but rather focuses solely on the alignment and identical treatment of generator costs i.e. how costs associated with Income Adjusting Events (IAEs) should be targeted for recovery.

This solution will mean any adjustments associated with such events/costs will no longer be recovered via the User of the assets but rather through adjustments to the Demand Residual which will ultimately impact end consumers tariffs and therefore be less cost-reflective.

Panel Member: Mark Duffield

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Overall (Y/N)
Original	Yes	Neutral	Neutral	Neutral	Neutral	Yes
Voting Statement						
<p>On balance I believe that CMP344 will better facilitate the Applicable CUSC Objectives. This is principally because the amendment will align the treatment between onshore and offshore users of similar unexpected charges incurred by transmission owners then this better facilitates applicable objective (a).</p> <p>I believe it is neutral against all other objectives.</p>						

Panel Member: Paul Jones

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Overall (Y/N)
Original	Yes	No	Neutral	Neutral	Yes	Yes
Voting Statement						
<p>The original would appear to be less cost reflective, but it is questionable whether the additional cost reflectivity in the baseline that is lost as a result of CMP344 would have sent a useful locational signal to the generator concerned. Therefore, the lost cost reflectivity would seem not to be detrimental to competition. The solution should provide similar treatment to generators improving competition. Also allows more efficient implementation of the arrangements. I do not support a retrospective implementation date though. Would recommend that this is reviewed when modifications are raised to look at Expansion Constant and onshore Expansion Factor calculations in early 2021, to ensure that consistent treatment is maintained in light of any proposed changes to these arrangements.</p>						

Panel Member: Paul Mott

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Overall (Y/N)
Original	Yes	Yes	Neutral	Neutral	Yes	Yes
Voting Statement						
<p>Regarding charging objective (a), CMP344 ensures offshore generators are subject to the same treatment of the cost of unforeseen and unforeseeable events such as allowed IAE's, as for onshore users, as highlighted in the case of the Sloy IAE. The current onshore practice is also better clarified and codified via this mod. The mod thus facilitates level competition and clear rules as between onshore and offshore generation users. Regarding objective (b), CMP344 clarifies cost recovery in a way that is consistent between onshore and offshore generation users. Regarding charging objective (e), CMP344 clarifies the treatment, including onshore, of the recovery of revenue adjustments for a Transmission Licensee that occur during a price control. This improved clarity will promote efficiency.</p>						

Vote 2 – Which option is the best?

Panel Member	BEST Option?
Andy Pace	Baseline
Cem Suleyman	Original
Garth Graham	Original
Grace March	Original
Joseph Dunn	Original
Jon Wisdom	Baseline
Mark Duffield	Original
Paul Jones	Original
Paul Mott	Original

Panel conclusion

The Panel, by majority recommended that the Proposer's solution should be implemented.

Authority Decision to send – back CMP344

On 5 May 2021, Ofgem [sent back CMP344](#) and noted the following:

- **Deficiencies of Final Modification Report (see Annex 8 of this document for a copy of this Final Modification Report)**
 - *“The submitted FMR has the following deficiencies, which means that we are unable to form an opinion:*
 - *It is not clear from the FMR which OFTO costs the Proposal applies to;*
 - *It is not clear from the legal text which OFTO costs the Proposal applies to; and*
 - *There is therefore no quantitative information regarding how the change impacts each set of network users”*
- **Ofgem's Expectations**
 - *“We therefore direct that further work is undertaken to address these deficiencies, including:*
 - *The costs and/or events affected by this Proposal clearly set out, with reasoning;*
 - *Analysis of the impact of the reforms on affected parties – to the extent that this Proposal represents a policy change, some indication of the magnitude of change should be presented once the parameters in (1.) above have been set; and*
 - *Legal text which clearly sets out the exact methodology the ESO should follow – in our view the current iteration of the legal text is not capable of being implemented as it is particularly unclear when ESO would be required to move costs into the demand residual. We also expect to see improved consistency between the legal text and FMR.”*

- *“We require the revised FMR to be very clear about what changes are being made, to explain the impacts on all affected parties and to ensure that the FMR and legal text are consistent”*

What approach was agreed at CUSC Panel to address this

CUSC Panel on 28 May 2021 agreed next steps following send-back on 5 May 2021:

- They noted that Ofgem are asking the Final Modification Report and Legal Text to be revised and resubmitted;
- They agreed that this needs to be assessed by a Workgroup (*there is no Workgroup Consultation, or Workgroup Report and no further Workgroup Alternatives can be raised*);
- They agreed the Workgroup’s Terms of Reference; and
- They agreed (following the assessment by the Workgroup) that a Code Administrator Consultation is needed to be run before it is re-presented to Panel for Recommendation Vote.

Agreed Terms of Reference to address Send-Back

- Consider whether or not the Offshore Transmission Network Review might provide a better forum to propose any changes to the charging arrangements for participants in the OFTO regime
- Clarify in the Final Modification Report which OFTO costs that CMP344 applies to;
- In the Legal Text a) clarify which OFTO costs that CMP344 applies to and b) clearly sets out the exact methodology the ESO should follow;
- Ensure consistency between the Final Modification Report and Legal Text; and
- Provide quantitative analysis as to how CMP344 impacts each set of network users

Workgroup Discussions following Authority decision

The Workgroup met on 9 September 2021 and 31 October 2022 to address these Terms of Reference and these discussions and conclusions are set out below:

Consider whether or not the Offshore Transmission Network Review might provide a better forum to propose any changes to the charging arrangements for participants in the OFTO regime

The Proposer was unclear in which of the Offshore Transmission Network Review (OTNR) workstreams, the issue that CMP344 seeks to resolve would be housed in, and this was echoed by Workgroup Members. The Workgroup also noted that the scope of OTNR is wide and OTNR is still in early stages with the conclusions of the consultation not due to be published until early 2022. Ofgem’s July 2021 consultation did not touch on any topic areas that would include the defect that CMP344 has identified. The Workgroup also raised concerns that adding further to the scope of OTNR at this stage would impact its overall

purpose deliverability and agreed that it would be prudent for CMP344 to be progressed and considered separately and ahead of the wider OTNR⁶.

Clarify in the Final Modification Report which OFTO costs that CMP344 applies to

The Workgroup agreed that the scope of CMP344 will be limited to Income Adjusting Events (IAEs).

In the Legal Text a) clarify which OFTO costs that CMP344 applies to and b) clearly sets out the exact methodology the ESO should follow:

- a) *The Workgroup agreed that the scope of CMP344 will be limited to Income Adjustment Events (IAEs).*
- b) *In CUSC 14.14.2, the ESO have removed MAR as the term is not used in any licence for example NGESO only talks about “maximum revenue”. They have also tidied up the final part of 14.14.2 that talks about Kt as it appears to be a general statement but this detail is not required here as it is the licence that determines what can be recovered and licences are clear about Kt and its treatment already. In terms of the rest of the text, ESO have updated that any IAE approved in a particular year will mean the OFTO revenue is adjusted and that is recovered via the Transmission Demand Residual⁷ in the following year – which aligns with how the cash flows and the OFTOs get paid via the STC today. There is a carveout though that says “unless otherwise approved by the Authority” which should allow some flexibility should the situation arise where you get to the end of an OFTO set revenue period and an IAE were to be approved – as there isn’t currently a mechanism to deal with adjustments after the period has ended. The ESO Workgroup Member proposed that this risk would be picked up as part of the work on options for the end of the fixed period in which regulated revenues are paid to offshore transmission owners (rather than as part of CMP344).*

Legal Text is set out in Annex 3 of this document.

Implementation

- In theory, CMP344 can be implemented as soon as practicable after Ofgem approval (if Ofgem approve) as there would not be any impact on revenue collection or tariff setting until the beginning of RIIO 3.
 - Current processes (not codified) would lead to revenue collection from the Transmission Demand residual in the year following an IAE being approved (subject to sufficient timescales to be included in TNUoS tariffs) – Step 1; and

⁶ Note that the same evidence was presented by the Proposer to the CUSC panel ahead of CMP344 being returned to the Workgroup.

⁷ **“Transmission Demand Residual”** definition (introduced by [CMP340](#)) to be implemented on 1 April 2023 and states: “the total sum of annual Transmission Network Use of System revenue to be recovered through the Transmission Demand Residual Tariffs from Final Demand Sites and Unmetered Supplies only”

- Charges are then levied via a generators' local tariff from the beginning of the next price control – Step 2.
- Under CMP344, Step 1 does not change. However, Step 2 would be removed irrespective of when an IAE might be approved (if CMP344 is implemented). This avoids any risk of need to reopen tariffs, even if an IAE were to be approved prior to CMP344 being implemented. The only caveat is that the above assumes CMP344 is implemented prior to RIIO-3.
- Annex 9 sets out a number of combinations of possible order of events, demonstrating, in the view of the Proposer, that in all reasonable scenarios, revenue collection in the current price control is unaffected by when CMP344 is implemented.
- Although, the Workgroup agreed that implementation does not have to be timed for a 1 April date, the Workgroup noted that the definition of “Transmission Demand Residual” will only be implemented on 1 April 2023. Whilst it is possible to use the current definition of “Transmission Network Use of System Demand Charges” and then raise a further Modification to change this to “Transmission Demand Residual”, on balance this was thought unnecessary given the likelihood of an IAE approval and/or CMP344 approval before 1 April 2023 in the current climate.

Ensure consistency between the Final Modification Report and Legal Text

To be checked in Final Modification Report before being issued to Ofgem

Provide quantitative analysis as to how CMP344 impacts each set of network users

Background and Scope

Following extensive investigation to identify if ESO was able to carry out the relevant analysis, or commission it directly, The Proposer commissioned Cornwall Insight to carry out relevant analysis. This was to establish the impact of the treatment of TNUoS charges and potential IAEs by offshore wind generators and the implications these have for consumers noting that CMP344 proposes that the additional revenue allowances for OFTOs in relation to IAEs should be recovered from all demand users, rather than the generator directly affected. Cornwall Insight considered the implications that this would have for TNUoS charges and the effects on CfD strike prices.

The full analysis and covering slides are included as Annex 10 and Annex 11 respectively.

Assumptions Made

The assumptions made by Cornwall Insight were:

- There have been five claims for Income Adjusting Events (IAEs) since the OFTO regime was established. Of the IAE claims to date, four applications have been rejected by Ofgem and the other is pending. Although four IAE applications were deemed ineligible by Ofgem, the claim cost information is likely to be consistent with costs and circumstances for an eligible outage claim. This is the information that

would be available to investors in generation assets for risk modelling purposes. The mean average of the claims cost is £9.48m, while the median is £10.95m. **For modelling purposes, the cost of an eligible IAE will be deemed to be £10m.**

- **Have approximated the impact of an IAE on a CfD risk premium by including IAE applications' costs as an additional OPEX cost for generators and included in a Levelised Cost of Energy (LCOE) calculation.** Noted though that Generators will have differing bidding strategies which add a layer of complexity to bids over and above the relatively simple Levelised Cost of Energy (LCOE) calculation carried out.
- The risk of IAEs being approved is low, with none having been finalised to date. But because of the high impact an IAE could have on an investment, generators must factor them into bids. **Have used three cases to quantify this:**
 - **Low - assuming an event occurs every 1 in 250 years.**
 - **Central - assuming an event occurs every 1 in 50 years**
 - **High – assuming an event occurs every 1 in 15 years**
- Considering the significant scope for different factors to influence the relative value over time (both positively and negatively), **have assumed the IAE value remains constant over the given period**
- **Used an example 1.5GW site in order to show the impact on future assets as the market grows.**
- **CfD strike prices are quoted in 2012 equivalent figures to maintain comparability with CfD Allocation Round 1 in 2014**
- **Results are inflated to today's money when calculating the consumer impact**
- **Used the [BEIS Levelised Cost of Energy](#) (LCOE) data to inform their analysis on load factors and asset costs when determining the strike price**

Methodology

Cornwall Insight's approach to this analysis was as follows:

- Reviewed the IAE applications submitted to Ofgem to date to inform potential additional TNUoS costs which would be incurred by generators under current arrangements;
- Undertook a high-level review of subsidy bidding strategies (e.g., CfDs) in relation to the treatment of risks beyond a bidder's control; and
- Taking central, high and low cases for generator assumptions on the likelihood of an IAE impacting their operation, modelled the impact of IAEs TNUoS risk on CfD costs. This considered how much generator CfD bids (required strike prices) would change if they did not need to take into account the impact of TNUoS costs related to IAEs.

Conclusions from Cornwall Insight

- IAE claims have been rare, and none have been approved by Ofgem so far. However, the risk of IAEs occurring is likely to be impacting the prices ultimately paid by consumers.

- Based on generators taking an assumption of a 1 in 50 (central case) chance of an IAE with a £10m TNUoS impact occurring in any given year, Cornwall Insight estimate
 - the TNUoS risk of IAEs for generators increases CfD strike prices by £0.03/MWh;
 - For anticipated CfD Allocation Round 5, 6 and 7 assets alone the total benefit to consumers of applying CMP344 would be ~£50m over the lifespan of their CfDs. If precedent continues and no IAE claims are approved, there is no offsetting cost to consumers – CMP344 is “upside only”.
- If an IAE were to occur, there would be a short-term cost to consumers under the CMP344 solution. If CMP344 were not approved, generators would increase risk premia as a result of an IAE being approved. Even when accounting for time value of money (the cost is upfront while the CfD benefit accrues later), the benefit of removing additional risk premia more than offsets the cost.
- CMP344 only removes one element of offshore cable outage risk. A significant cost to developers will remain from lost productivity in the event of a cable failure. Hence developers will remain heavily incentivised to construct offshore infrastructure to high standards of reliability. CMP344 will not meaningfully diminish this incentive. The additional risk to generators from exposure to IAE expenses is not a useful market signal.

The following table summarises the Impacts and further detail can be found in the full analysis (Annex 10) and covering slides (Annex 11).

CMP344 Impact Summary

If an IAE were to occur under CMP344, consumers would pay more in the short term. But the counterfactual without CMP344 would see generator risk premia increase as generators would perceive an increased IAE risk. So, in the long run consumers would still be detrimentally impacted.

	No IAE	An IAE occurs
CMP344 adopted	Ideal outcome– no consumer cost in TNUoS or CfDs <ul style="list-style-type: none"> • No recovery required • Future CfD risk premia related to IAEs removed • Consumers benefit overall 	Good outcome –consumers face upfront cost of IAE but no reactive increase in future CfD costs <ul style="list-style-type: none"> • Permitted costs recovered from all demand users via TNUoS, consumers pay more short term... • ...but CfD IAE related risk premia remain zero • Consumers benefit overall
CMP344 rejected	Poor outcome –consumers fund risk premia in bids despite no cost ever being incurred <ul style="list-style-type: none"> • No recovery required • Consumers continue to fund CfD risk premia • Consumer detriment overall 	Poor outcome– customers still exposed to upfront costs (albeit paid back in RII) as well as to reactive increase in CfD risk premia <ul style="list-style-type: none"> • Permitted costs recovered from Generator • Consumers save in short term... • ...but CfD risk premia increase based on higher perceived IAE risk Consumer detriment overall

Source: Various, compiled by Cornwall Insight

Workgroup thoughts on Conclusions

Workgroup welcomed the analysis provided and concluded that this addresses the asks from Ofgem to set out what the benefit could be of implementing CMP344. The ESO Workgroup Member suggested that benefits depend on your view as to whether or not risk premia will always be applied if CMP344 is rejected.

When will this change take place?

Implementation date

1 April 2023

Date decision required by

As soon as possible

Implementation approach

In theory, CMP344 can be implemented as soon as practicable after Ofgem approval (if Ofgem approve) as there would not be any impact on revenue collection or tariff setting until the beginning of RIIO 3. Although, the Workgroup agreed that implementation does not have to be timed for a 1 April date, the Workgroup noted that the definition of “Transmission Demand Residual” will only be implemented on 1 April 2023. Whilst it is possible to use the current definition of “Transmission Network Use of System Demand Charges” and then raise a further Modification to change this to “Transmission Demand Residual”, on balance this was thought unnecessary given the likelihood of an IAE approval and/or CMP344 approval before 1 April 2023 in the current climate.

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 ⁸ | <input type="checkbox"/> Other
modifications | <input type="checkbox"/> Other |

None

⁸ If the modification has an impact on Article 18 T&Cs, it will need to follow the process set out in Article 18 of the Electricity Balancing Regulation (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.

How to respond

Second Code Administrator consultation questions

- Do you believe that CMP344 Original proposal better facilitates the Applicable Objectives?
- Do you support the proposed implementation approach?
- Do you have any other comments?

Views are invited on the proposals outlined in this consultation, which should be received by 5pm on **17 January 2023**. Please send your response to cusc.team@nationalgrideso.com using the response pro-forma which can be found on the [CMP344 modification page](#).

If you wish to submit a confidential response, mark the relevant box on your consultation proforma. Confidential responses 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.

Acronyms, key terms and reference material

Acronym / key term	Meaning
Baseline	The code/standard as it is currently
CfD	Contracts for Difference
CUSC	Connection and Use of System Code
ESO	Electricity System Operator
FMR	Final Modification Report
IAE	Income Adjusting Event(s)
MAR	Maximum Allowed Revenue
OFTO	Offshore Transmission Owner
OTNR	Offshore Transmission Network Review
RIIO	Revenue = Incentives + Innovation + Outputs
TDR	Transmission Demand Residual
TNUoS	Transmission Network Use of System charges
TO	Transmission Owner

Reference material:

- Offshore Transmission: Generic OFTO Licence and Guidance for TR6, Publication date 30th November 2018 at <https://www.ofgem.gov.uk/publications-and-updates/offshore-transmission-generic-ofto-licence-and-guidance-tr6>
- Generic Offshore Transmission Owner (OFTO) Licence at https://www.ofgem.gov.uk/system/files/docs/2019/07/generic_ofto_licence_tr6_v1_change_marked_for_publication.pdf
- National Grid Letter 27 July 2017, "Reflecting variations in Offshore Transmission Owner (OFTO) revenue in Offshore Local TNUoS Tariffs" at <https://www.nationalgrideso.com/document/94076/download>
- TCMF Slides May 2016, at <https://www.nationalgrideso.com/document/48481/download>
- SLOY Determination <https://www.ofgem.gov.uk/ofgem-publications/52604/tirg-sloy-determination-pdf>

Annexes

Annex	Information
Annex 1	CMP344 Proposal Form
Annex 2	Terms of Reference
Annex 3	Legal Text
Annex 4	Workgroup Consultation Responses
Annex 5	ESO Tariff Analysis
Annex 6	Workgroup Vote
Annex 7	First Code Administrator Consultation Responses
Annex 8	CMP344 First Final Modification Report
Annex 9	Implementation approach timings
Annex 10	Cornwall Insight Analysis
Annex 11	Cornwall Insight Summary slides