

Workgroup Consultation Response Proforma

CMP376: Inclusion of Queue Management process within the CUSC

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 **23 December 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 paul.j.mullen@nationalgrideso.com or cusc.team@nationalgrideso.com

Respondent details	Please enter your details
Respondent name:	Anthony Cotton
Company name:	Energy Technical & Renewable Services Ltd
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Phone number:	07774102942

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 (non-charging) Objectives are:

- The efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence;*
- Facilitating effective competition in the generation and supply of electricity, and (so far as consistent therewith) facilitating such competition in the sale, distribution and purchase of electricity;*
- Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency *; and*
- Promoting efficiency in the implementation and administration of the CUSC arrangements.*

*The Electricity Regulation referred to in objective (c) 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 Workgroup Consultation questions		
1	Do you believe that the Original Proposal or any of the potential alternative solutions better facilitates the Applicable Objectives?	<p>Mark the Objectives which you believe each solution better facilitates:</p> <p>Original <input type="checkbox"/> A <input checked="" type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D</p> <p>Click or tap here to enter text.</p>
2	Do you support the proposed implementation approach?	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Click or tap here to enter text.</p>
3	Do you have any other comments?	<p>The queue management arrangement (“QM”) should <u>not</u> apply to DNOs (including IDNOs). As currently proposed the CUSC QM will not apply to DNOs where the Consag is being offered in association with Distributed Generation (ie a Consag under Schedule 2 Exhibit 3 Part 1), this is correct because the Distributed Generation will be caught by the DNO QM (ENA Guidance July 2021) which is different. However a DNO Consag not associated with Distributed Generation (Schedule 2 Exhibit 3 Part 2) will have the CUSC QM applied, even where the DNO is requesting the new or modified connection to meet customer requirements who are not Distributed Generation (eg demand customers). Such customers will nevertheless have the ENA Guidance QM applied to them and this will be in conflict with the CUSC QM applied to the DNO. The proposal (including the legal text in Schedule 2 Exhibit 3 Part 2) needs to clarify that the CUSC QM does not apply to DNOs that are applying for new or modified connections to meet any customer requirements that are covered by the ENA Guidance QM. A suitably amended form of Clause 18 of the proposed proforma Consag in Schedule 2 Exhibit 3 Part 1 should be included in the proforma Schedule 2 Exhibit 3 Part 2</p>
4	Do you wish to raise a Workgroup Consultation Alternative Request for the Workgroup to consider?	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Click or tap here to enter text.</p>

Specific Workgroup Consultation questions		
1	Do you agree with the Milestone durations proposed? Please	<p>The milestones appear reasonable for an onshore wind project but may not be long enough for some other technologies such as offshore wind. Conversely, the</p>

	provide the rationale for your response.	later milestones do not make any sense for a project with a short construction lead time such as BESS or solar PV. Milestone M5 appears too early and may be a barrier to competition as it will reduce the attractiveness to a User of offering to complete the contestable works itself. A better approach to setting the milestones would be to adopt the ENA Guidance July 2021 which sets only milestones M1 to M3 with the offer and sets the remainder according to the construction plan milestone M6. This will result in milestones tailored to the project requirements. There is no substantive explanation as to why this approach was not adopted, after being previously agreed for the ENA Guidance by both DNOs and TOs.
2	Do you agree that the time period for the milestone durations should be from the contracted Completion Date back to the date the Offer is sent to the User; or from the Contracted Completion Date back to the date the Offer is accepted by the User; or from the Contracted Completion Date back to the date the Offer becomes effective; or do you have an alternative approach? Please provide the rationale for your response.	Users need clarity on what milestones will apply and therefore the applicable durations should be clear at the point of application. As the User does not know when an offer will be made, it will not always know the durations until the offer is sent out (although in many cases it will be known – it is only if the offer is made around the boundary between different columns in the table). This is important because there are significant differences for project milestones from falling into one column rather than another. Furthermore, it does not seem fair for the “clock” to start on completing the milestones even before the offer is agreed. It is also not clear if re-issue of an offer (during the acceptance period, for instance due to correcting errors or otherwise amending it) would restart the clock for this purpose. Therefore we prefer for the milestone durations to be from the contracted Completion Date back to the date the Offer is accepted by the User. However as that would mean that the milestones would not be known when preparing the offer, a compromise might be to use the period from the Contracted Completion Date back to a date which is 6 months from the clock start date.
3	There are differences between the arrangements at Transmission and Distribution. Do you agree with the reasons provided why there is different treatment and that these don't create undue discrimination? Please provide the rationale for your response.	We cannot see that any substantive reasons have been provided as to why there is different treatment between the arrangements at Transmission and Distribution. The differences are material especially in relation to the setting of milestones after M3, the non-exclusive list of Exceptions and the “discretionary” nature of the DNO Guidance versus automatic termination. These will create undue discrimination between projects under different regimes.

4	Do you agree with the evidence requirements proposed? Please provide the rationale for your response.	Generally yes but it is not clear as to what is required to get a programme “agreed” with NGESO and the RTO for M6 and for M7, what actual evidence is needed (eg does NGESO need to see the contract for main plant equipment) and what is meant by “subsidy” and how its awarding would be evidenced.
5	Do you agree that works specifically for a User, whose Construction Agreement has been terminated under CMP376, should be suspended until the outcome of the Appeal/Dispute. Please provide the rationale for your response.	No, if a User indicates that it contests the termination notice and intends to Appeal/Dispute it, works should continue until such process has been completed. Otherwise, in the event that the termination is found to be invalid the User’s position will have been prejudiced.
6	Do you have any views on the most appropriate route for Appeals/Disputes raised by a User whose Construction Agreement has been terminated under CMP376? Please provide the rationale for your response.	A hybrid approach depending on the matter at dispute would be the most appropriate mechanism as an appropriate route could be followed in each case
7	Do you agree with the circumstances when Milestone Dates will be changed – the “exceptions”? Please provide the rationale for your response.	The list of exceptions should be non-exclusive, as they are in the ENA Guidance
8	Do you agree that the associated Construction Agreement will be terminated if Milestone Dates (unless covered by the exceptions) are missed and not rectified within the 60-calendar day period? Please provide the rationale for your response.	Yes, but only following expiry of the Appeals/Dispute process as noted in 5 above

9	Do you agree with the proposed impacts on Milestones for different types of Modification Applications? Please provide the rationale for your response.	Yes
10	Does the CMP376 Original proposal or any of the potential alternative solutions impact your business and/or end consumers. If so, how?	Whilst supportive of the arrangements overall, it needs to be born in mind that adding additional termination rights and/or absolute termination events into new or modified agreements will add to cost and risk for Users which will ultimately be borne by consumers. Users may also ask for later completion dates than they could reasonably achieve so as to mitigate against the risk of termination, this will be a negative impact on consumers.