

**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](mailto: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](mailto:paul.j.mullen@nationalgrideso.com) or [cusc.team@nationalgrideso.com](mailto:cusc.team@nationalgrideso.com)

Respondent details	Please enter your details
<b>Respondent name:</b>	Paul Jones
<b>Company name:</b>	Uniper UK Ltd
<b>Email address:</b>	paul.jones@uniper.energy
<b>Phone number:</b>	07771975782

**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 checked="" type="checkbox"/>A    <input checked="" type="checkbox"/>B    <input type="checkbox"/>C    <input checked="" type="checkbox"/>D</p> <p><a href="#">Click or tap here to enter text.</a></p>
2	Do you support the proposed implementation approach?	<p><input checked="" type="checkbox"/>Yes <input type="checkbox"/>No</p> <p>Yes. We have concerns about retrospective modifications, but inevitably this would seem to be necessary in this instance, if the queue of 320GW of plant in the present contracted background is to be rationalised.</p>
3	Do you have any other comments?	No thank you.
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><a href="#">Click or tap here to enter text.</a></p>

Specific Workgroup Consultation questions		
1	Do you agree with the Milestone durations proposed? Please provide the rationale for your response.	<p>There are some apparent issues. For instance, all dates are fixed regardless of the type of project which is seeking to connect. This seems more of an issue with later milestones such as M7 and M8 where project build times would seem to be more important and could differ significantly between different projects. However, we do appreciate the difficulty to tailor these to different projects without raising concerns about discrimination.</p> <p>Additionally, we would agree that it would make sense to bring together the dates for milestones for M5 and M6 more. There is the consistency argument whereby the works in scope of the contestable works (M5) would be included in the construction plan (M6) for uncontested connections. Also, for those connections with a third party providing the contestable works, the agreement of the contestable works scope and the main construction plan is likely to be an interactive and iterative process. If the submission of the scope in M5 is supposed to cover the initial submission, which could be subsequently altered with feedback from the host TO, then it may</p>

		make sense for the deadlines to be apart from each other. However, if it is in order to establish an agreed scope of contestable works, then M5 and M6 should perhaps be closer together.
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.	It would seem to make sense for this to be from when the offer becomes effective, particularly if there are instances where the offer has to be reissued for some reason. Ordinarily the date the offer is made and the acceptance date should not be more than 3 months apart of course.
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.	The main area of concern is where the Distribution Connection process allows the right to termination, whereby the CUSC process mandates termination. The CUSC process does prevent concerns about discriminatory treatment. However, the lack of discretion does raise the prospect of perfectly good projects with minor delays being effectively halted when a more proportionate approach may have been warranted instead.
4	Do you agree with the evidence requirements proposed? Please provide the rationale for your response.	These seem reasonable.
5	Do you agree that works specifically for a User, whose Construction	This does seem to give the benefit of the doubt to the ESO rather than the connecting party. If the appeal is successful then the project has been unnecessarily delayed. Conversely, if the works are allowed to

	Agreement has been terminated under CMP376, should be suspended until the outcome of the Appeal/Dispute. Please provide the rationale for your response.	continue, but the appeal is unsuccessful, then any stranded costs should be covered by the user commitment arrangements. Therefore, allowing the works to go ahead pending the appeal might be a preferable solution, as long as appeals can be heard and resolved in a timely manner.
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.	Given concerns around lack of discretion in the CUSC arrangements as proposed, it would seem appropriate to introduce some form of appeal to Ofgem, even if this is effectively another layer of appeal to be used in exceptional circumstances after an appeal to an independent engineer has already been made. An independent engineer route for general appeals seems appropriate as disputed decisions may come down to technical considerations around whether the user or a TO or the ESO was responsible for a delay.
7	Do you agree with the circumstances when Milestone Dates will be changed – the “exceptions”? Please provide the rationale for your response.	The list as set out should form a minimum. The other two items suggested are definitely worthy of consideration, although we agree with excluding supply chain issues which could have reasonably been avoided by the connecting party through appropriate contractual arrangements.
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, although we do have concerns about the difference of approach with distribution level connections. As we mention above, there is a risk that a strict, inflexible approach will end up making relatively minor delays, longer or indeed permanent, particularly at the later milestones where there may be little threat to the project going ahead from the delay. That said, the latest milestone is commencement of works, which at least does allow some flexibility, should the project suffer from delays during construction.
9	Do you agree with the proposed impacts on Milestones for different types of Modification Applications? Please provide the rationale for your response.	The different treatment of modifications made pre and post implementation of CMP376 seems counterintuitive. It would suggest that it is better to submit a modification application after CMP376 has been implemented, as the new dates in the application will be taken into account when setting the new milestones, whereas if one is submitted prior to the implementation date then original milestones will apply.

10	Does the CMP376 Original proposal or any of the potential alternative solutions impact your business and/or end consumers. If so, how?	Yes, it will impact how we manage our connection agreements. However, as a long as the rules are clear and workable, then this should be manageable.
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