CUSC Panel

Friday 31 March 2023

Microsoft Teams

WELCOME

ESO

Approval of Panel Minutes

Approval of Panel Minutes from the Meetings held

24 February 2023

Review of Actions within Action Log

Chair’s Update

Authority Decisions and Update (as at 23 March 2023)

Decisions Received since last Panel meeting

- **None**

Decisions Pending

- **CMP286/CMP287** (Expected decision date 30 September 2023)
- **CMP288** (Expected decision date was 21 March 2023 but not yet received)
- **CMP292** (Expected decision date of 31 October 2023)
- **CMP298** (Expected decision date of 26 April 2023 - The Final Modification Report for the associated STC change (CM080) was issued to Ofgem on 11 October 2022)
- **CMP344** (Expected decision date 28 April 2023)
- **CMP384** (Expected decision date 31 March 2023)

Received Final Modification Reports since last Panel Meeting

- **CMP379** (Final Modification Report received 8 March 2023 - Expected decision date TBC)

New Modifications Submitted

CMP413: Rolling 10-year wider TNUoS generation tariffs

Binoy Dharsi

Critical Friend Feedback – CMP413

Code Administrator comments	Amendments made by the Proposer
Proposed restructuring (particularly on the Proposer's solution) and sought clarity on which statements are opinion and which are facts Provided timeline Sought clarity on implementation approach Sought clarity on governance route Defined acronyms	Proposer accepted majority of amendments made by the Code Administrator but some of the existing language was retained and Proposer agreed wording re: implementation and implementation approach.

CMP413 – the asks of Panel

- **AGREE** that this Modification should follow Standard Governance (Ofgem decision) rather than the Self-Governance Criteria (Panel decision)

- **AGREE** that this Modification should proceed to Workgroup

- **AGREE** Workgroup Terms of Reference

- **NOTE** that there appear not to be any impacts on the Electricity Balancing Regulation (EBR) Article 18 terms and conditions held within the CUSC

- **NOTE** the proposed timeline

Timeline for CMP413 – Proposed Timeline – *Workgroup if "High" in prioritisation stack*

Milestone	Date	Milestone	Date
Modification presented to Panel	31 March 2023	Panel sign off that Workgroup Report has met its Terms of Reference	24 November 2023
Workgroup Nominations (15 Working Days)	3 April 2023 to 26 April 2023	Code Administrator Consultation (15 working days)	27 November 2023 to 18 December 2023 (5pm)
Workgroup 1- Setting the scene – understand Modification process, roles and responsibilities, agree Terms of Reference and timeline, understand the proposed change and agree next steps	11 May 2023	Draft Final Modification Report (DFMR) issued to Panel (5 working days)	18 January 2024
Workgroups 2 to 5 - review current / additional analysis, discuss cap/collar ranges, discuss number of years the TNUoS tariffs are fixed for, identify alternative solutions, draft legal text, draft Workgroup Consultation and questions	31 May 2023, 21 June 2023, 11 July 2023 and 1 August 2023	Panel undertake DFMR recommendation vote	26 January 2024
Workgroup 6 – finalise Workgroup Consultation	23 August 2023	Final Modification Report issued to Panel to check votes recorded correctly	29 January 2024
Workgroup Consultation (15 working days)	30 August 2023 to 20 September 2023 (5pm)	Final Modification Report issued to Ofgem	6 February 2024
Workgroups 7 to 9 - *Review Workgroup Consultation Responses and proposed alternatives, Alternative Vote, Finalise solutions and legal text, Agree that Terms of Reference have been met and Workgroup Vote*	2 October 2023, 23 October 2023 and 13 November 2023	Ofgem decision	TBC
Workgroup report issued to Panel (5 working days)	16 November 2023	Implementation Date	TBC

CMP413 – possible Terms of Reference if Workgroup needed?

- *Consider EBR implications*
- *Consider the length of time the TNUoS Generation tariffs are fixed for?*
- *The proposal is for charges to be capped/floored at a pre-defined range for that generation zone for each charging year. Consider the requirement for a cap and collar and consider what the pre-defined range should be?*
- *Consider interaction between the Generation TNUoS charges falling outside the "pre-defined" range and ensuring that EC838/2010 is not breached.*
- *The proposal is that the net difference in the TNUoS Generation tariff (if it breaches the pre-defined range) across all generation zones would be recovered through demand TNUoS. Consider the impact on demand TNUoS tariffs.*
- *Consider the impact on consumers.*

BREAK

Inflight Modification Updates

Review of all CUSC Modifications with current status, next steps and any Panel recommendations

Request to change modification timeline

CMP315/CMP375	Workgroup Report issued to Panel	DFMR issued to Panel	FMR issued to Ofgem
Previous timeline	19 January 2023	23 March 2023	14 April 2023
New timeline	18 May 2023	22 June 2023	12 July 2023

Rationale: Workgroup Report was planned to be presented to January 2023 Panel. However at the Workgroup on 5 December 2022 (at which the solutions to be taken forward were agreed), the Workgroup agreed that the analysis on the impact of the solutions on TNUoS tariffs needs to be completed ahead of the Workgroup concluding and this will not be available until 31 March 2023. Therefore, the CMP315/CMP375 Workgroup Report will be presented to May 2023 CUSC Panel.

Workgroups Remaining: 2

Ask of Panel: Agree revised timeline?

Request to change modification timeline

CMP330/CMP374	Workgroup Report issued to Panel	DFMR issued to Panel	FMR issued to Ofgem
Previous timeline	23 March 2023	18 May 2023	07 June 2023
New timeline	20 April 2023	22 June 2023	12 July 2023

Rationale: Workgroup Report was planned to be presented to March 2023 Panel; however at Workgroup on 8 March 2023, the Proposer suggested additional legal text to be added to the CMP330/374 Original solution, however this is no longer being considered. More time is required for the Workgroup to complete the Workgroup Vote post finalisation of the legal text and therefore the Workgroup Report will be presented to April 2023 Panel (rather than March 2023 Panel)

Workgroups Remaining: 1

Ask of Panel: Agree revised timeline?

Request to change modification timeline

CMP331	Workgroup Report issued to Panel	DFMR issued to Panel	FMR issued to Ofgem
Previous timeline	16 February 2023	20 April 2023	15 May 2023
New timeline	20 April 2023	22 June 2023	12 July 2023

Rationale: Workgroup to discuss Workgroup Consultation held 20 January 2023 and next steps agreed. Next (and final) Workgroup meeting scheduled for 27 March 2023 in line with timing of analysis re: impact on existing TNUoS bill-payers and this means Workgroup Report will be presented to April 2023 rather than February 2023 Panel.

Workgroups Remaining: 1

Ask of Panel: Agree revised timeline?

Request to change modification timeline

CMP393	Workgroup Report issued to Panel	DFMR issued to Panel	FMR issued to Ofgem
Previous timeline	18 May 2023	22 June 2023	12 July 2023
New timeline	20 July 2023	21 September 2023	10 October 2023

Rationale: Timeline has been extended to allow additional time for analysis (now received) and additional time to review the solution and finalise the Workgroup Consultation. March 2023 Panel are being asked to agree a timeline extension for the Workgroup Report to be presented to Panel (from May 2023 to July 2023 Panel)

Workgroups Remaining: 3

Ask of Panel: Agree revised timeline?

Discussions on Prioritisation

- **AGREE where New Modifications that need Workgroups are placed in the prioritisation stack**
- **AGREE any movements in the current prioritisation stack**

Prioritisation Principles

Section 8: 8.19.1(e) makes the following provision for the Panel and states "Having regard to the complexity, importance and urgency of particular CUSC Modification Proposals, the CUSC Modifications Panel may determine the priority of CUSC Modification Proposals and may (subject to any objection from the Authority taking into account all those issues) adjust the priority of the relevant CUSC Modification Proposal accordingly"

Complexity	The modification is viewed as being resource intensive and will most likely require a higher than average number of workgroups to conclude the process. Additionally the modification defect is viewed to have implications for many different areas of the energy market which need to be taken into consideration throughout the process.
Importance	The perceived value & risk associated with the proposed modification. The value / risk could be considered from a number of different perspectives i.e. financial / regulatory / licence obligations both directly for customer and end consumers more generally.
Urgency	A modification which requires speedy consideration within the code governance process, both complexity and importance should be factors considered in evaluating urgency as well as the timescales for implementation within the respective code.

Workgroup Report

CMP376: Inclusion of Queue Management process within the CUSC

Paul Mullen

Key points to note to the Panel

- Complex Modification with high level of interest and the varied solutions reflect the differing positions of key stakeholder Groups when considering Queue Management
- Some solutions only differ based on who the Queue Management arrangements should apply to
- Implementation Date is later for the Dynamic Queue Management options to allow STC changes to be developed

Solution(s) - Original

<table>
<tr><td colspan="3">Scope and Implementation – All new applications, new Modification Applications and new Agreements to Vary (ATVs) for parties with a CUSC Construction Agreement (except BEGAs, DNOs associated with Distributed Generation (DG) or demand customer connections; and shared works for non-radial offshore connections and any Offshore Transmission System User Development Works (OTSDUW)).

Implementation Date – 10 working days after Authority Decision</td></tr>
<tr><td>Milestones – Milestones to be included in the Construction Agreement and will date back from contracted Completion Date (Milestone duration time period is determined from a look-up table based on the period from the offer date of the Agreement to the contracted Completion Date).</td><td>Evidence to Demonstrate Compliance – For each Milestone set out in the CUSC. Note that this is an ongoing compliance requirement for M1, M2 and M3 (i.e. the Conditional Progression Milestones).</td><td>Exceptions - Exceptional issues that Users cannot control and which may lead to unforeseen project delay and issues with their compliance to Milestones.</td></tr>
<tr><td>Modification Applications – All Milestone dates stay fixed unless Exception provided; in case of 1st Modification Application after CMP376 implementation for pre-existing Construction Agreements, Milestones are set based on the Modification Application offer date and the Completion Date in that offer.</td><td>Terminations – There is a 60 calendar day remedy period to rectify any missed Milestones

ESO will terminate for M1, M2 and M3 (i.e. the Conditional Progression Milestones).

ESO has the right to terminate for M5, M6, M7 and M8 (i.e. the Construction Progression Milestones). There will be an internal ESO escalation process before this right is exercised.</td><td>Appeals – Standard “Other Disputes” process as per CUSC Section 7.4</td></tr>
</table>

Solution(s) - WACMs

Other Solutions	How does it differ from Original
WACM1	Milestone M6 to say “Submit” rather than “Agree”
WACM2	As WACM1 but applies as per WACM7
WACM3	Milestone M3 to have a blanket 3 months after offer effective date (rather than counting back from Completion Date) for all columns on the Milestone Duration table where the Land Rights for the User’s project are required from only one landowner. This will be extended to 6 months where the Land Rights for the User’s project are required from two or more landowners
WACM4	As WACM3 but applies as per WACM7
WACM5	Milestones M7 and M8 to be bilaterally negotiated
WACM6	As WACM5 but applies as per WACM7
WACM7	Applies to all existing agreements with a contracted Completion Date of 2 years or more, or projects with a Completion Date of less than 2 years which aren’t progressing, from CMP376 implementation
WACM8	Dynamic queue management for Milestones M5 to M8 - ESO’s immediate right of termination is removed for Milestones M5 to M8 and replaced with the permanent reassignment of queue position Implementation Date – 6 months after Authority Decision
WACM9	As WACM8 but applies as per WACM7
WACM10	Allows Users in their connection application to elect (subject to agreement with the ESO), which column in the Milestone Duration table should apply to their project for the purpose of compliance vs Milestones; and confirm their proposed date for Milestone M1. Where this means the time between Offer sent and User’s proposed Completion Date is between columns on the Milestone Duration table, the actual milestone duration is calculated proportionately between the 2 column values.
WACM11	As per WACM1 and WACM8 and add Exception “Where a milestone is missed due to the User awaiting the award of a governmental or regulatory subsidy which provides financial support or incentive to the User’s projects, the User may avoid termination if they can provide evidence that they are actively progressing with such a subsidy”. Implementation Date – 6 months after Authority Decision

Workgroup Vote

Summary of Workgroup Vote:

- The Workgroup concluded by majority that all the proposed solutions (except WACM9) better facilitated the Applicable Objectives than the Baseline.
- The table below provides a summary of how many Workgroup members believed the Original and each of the 11 WACMs were better than the Baseline

Option	Number of voters that voted this option as better than the Baseline
Original	14
WACM 1	15
WACM 2	10
WACM 3	11
WACM 4	11
WACM 5	14
WACM 6	9
WACM 7	11
WACM 8	12
WACM 9	7
WACM 10	10
WACM 11	12

Terms of Reference

- The Workgroup conclude that they have met their Terms of Reference and the references can be located below:

Workgroup Term of Reference	Location in Workgroup Report
a) Consider EBR implications.	“Interactions” section
b) Consider how the ESO communicates it’s acceptance (or not) of the evidence of milestone completion provided by the User.	“Workgroup Considerations – Evidence” section
c) Consider how the ESO will monitor User compliance, verify evidence provided by Users, and when action is taken to enact any termination rights.	“Workgroup Considerations – Evidence” and “Termination” section
d) Consider interaction with other provisions in the CUSC, Construction Agreements and Connection Agreements that deal with project delays and termination of agreements (e.g. Quarterly Updates).	“Workgroup Considerations – Termination” section
e) Consider how this is enacted when a User seeks to delay beyond their originally contracted milestone dates i.e. does this lead to automatic termination of any Construction Agreement or is there any scope to delay connection dates. Consider previous work on CAP150 in this regard	“Workgroup Considerations – Termination” section
f) Consider requirement to ensure Construction Agreement Milestones (Appendix J) responsibilities are clearly defined specifically with respect to consents and land rights.	“Workgroup Considerations – Evidence” section
g) Consider any strategic or regulatory driver behind reallocation of capacity following a termination e.g. Electricity System Restoration Standard.	“Workgroup Considerations – Scope and Implementation”
h) Consider the route to align Transmission and Distribution agreements for same User connections, including consideration of whose milestones take priority for User compliance.	“Workgroup Considerations - Distribution vs Transmission consistency considerations”
i) Consider how other CUSC arrangements may need to change as a result of promoting Users up the queue following a termination of another User (e.g. User Commitment for those Users, who are allowed to advance their connection date).	“Workgroup Considerations – Termination” section
j) Clarify any enduring interaction between the CUSC legal text and the ENA Queue Management guidance document.	“Implementation Approach”

CMP376 - the asks of Panel

- **AGREE** that the Workgroup have met their Terms of Reference
- **AGREE** that this Modification can proceed to Code Administrator Consultation
- **NOTE** that this Modification does not impact the Electricity Balancing Regulation (EBR) Article 18 terms and conditions held within the CUSC?
- **NOTE** the ongoing timeline

CMP376 Next Steps

Milestone	Date
Code Administrator Consultation (20 working days)	4 April 2023 to 5 May 2023 (5pm)
Draft Final Modification Report issued to Panel	18 May 2023
Draft Final Modification Report presented to Panel	26 May 2023
Final Modification Report issued to Panel to check votes recorded correctly (5 working days)	30 May 2023
Submission of Final Modification Report to Ofgem	7 June 2023
Ofgem decision date	TBC
Implementation Date	10 working days after Authority Decision

Workgroup Report

CMP398: GC0156 Cost Recovery mechanism for CUSC Parties

Milly Lewis

Solution(s) and Workgroup Vote

Summary of solutions:

The requirement implementation of CMP398 is dependent on the Authority approving the Original GC0156 solution which places obligations on Non Restoration Contract Providers; were the Authority to approve WAGCM1 or reject GC0156 then there would be no requirement for CMP398

- Original Solution: CUSC Panel to appoint a Claims Committee to assess claims submitted with no end date stipulated, that may include OPEX, with a pre-approval process for claims above £100k.
- WACM1: A one month claims windows would open each September after the modification is approved until a final claims window ends 31 December 2026, with claims submitted to and assessed by the ESO. Approved claims to be paid out as a flat monthly payment across 12 months, from the following April after approval of a successful claim. Excludes any form of OPEX allowance or OPEX claim. New generators that sign a Bilateral connection agreement after GC0156 approval, cannot submit a claim.
- WACM2: Similar to the Original except that Users that first sign a bilateral connection agreement with The Company after the date of implementation of GC0156 will not be permitted to submit a claim. This is to allow those users who did not have sufficient time (at the design, construction and commissioning stages) to accommodate the requirements in the most cost-effective manner - had they had sufficient notice.

Summary of Workgroup Vote:

- The Workgroup by majority concluded that the WACM2 better facilitated the Applicable CUSC Objectives than the Baseline.

Terms of Reference

- The Workgroup conclude that they have met their Terms of Reference and the references can be located below:

Workgroup Term of Reference	Location in Workgroup Report (to be completed at Workgroup Report stage)
a) Consider EBR implications	**"Interactions" section**
b) Consider the relevant provisions of the Electricity Restoration Standard	**"Workgroup Considerations" section**
c) Consider the Claim principles, items to be included, good governance process and payment/recovery for any cost recovery mechanism	**"Workgroup considerations" section**
d) Consider the proposal for a CUSC Claims Committee and consider how this is set up, what their scope and remit could be	**"Workgroup considerations" section**
e) Consider interactions with GC0156.	**"Interactions" section**
f) Use reasonable endeavours to consider the cost impacts and benefits on consumers	**"Workgroup considerations" section**

CMP398 - the asks of Panel

- **AGREE** that the Workgroup have met their Terms of Reference
- **AGREE** that this Modification can proceed to Code Administrator Consultation
- **NOTE** that this Modification does not impact the Electricity Balancing Regulation (EBR) Article 18 terms and conditions held within the CUSC?
- **NOTE** the ongoing timeline

CMP398 Next Steps

Milestone	Date
Code Administrator Consultation (20 working days)	4 April 2023 to 5 May 2023 (5pm)
Draft Final Modification Report issued to Panel	18 May 2023
Draft Final Modification Report presented to Panel	26 May 2023
Final Modification Report issued to Panel to check votes recorded correctly (5 working days)	30 May 2023
Submission of Final Modification Report to Ofgem	7 June 2023
Ofgem decision date	TBC
Implementation Date	10 working days after Authority Decision

Draft Final Modification Report

CMP410: Payment Timescales for Monthly Payments

Paul Mullen

Solution and Code Administrator Consultation

Solution/summary of solutions:

- CMP410 Original seeks to update payment timescales for monthly payments where invoices are issued late.

- No responses to the Code Administrator Consultation ran from 28 February 2023 to 5pm on 21 March 2023.

CMP410 - the asks of Panel

- **NOTE** that this Modification does not impact the Electricity Balancing Regulation (EBR) Article 18 terms and conditions held within the CUSC?

- **VOTE** whether or not to recommend implementation
  - *Does the CMP410 Original proposal better facilitate the objectives than the current CUSC arrangements?*

- **NOTE** next steps

CMP410 – Next Steps

Milestone	Date
Draft Self Governance Modification Report presented to Panel	31 March 2023
Final Self Governance Modification Report issued to Panel to check votes recorded correctly (5 working days)	4 April 2023
Appeals Window (15 working days)	14 April 2023 to 5pm on 9 May 2023
Implementation Date (5 working days after closure of Appeals Window)	16 May 2023

EBR Article 3 Objectives

For reference, the Electricity Balancing Regulation (EBR) Article 3 (Objectives and regulatory aspects) are:

1. This Regulation aims at:

(a) Fostering effective competition, non-discrimination and transparency in balancing markets;

(b) enhancing efficiency of balancing as well as efficiency of national balancing markets;

(c) integrating balancing markets and promoting the possibilities for exchanges of balancing services while contributing to operational security;

(d) contributing to the efficient long-term operation and development of the electricity transmission system and electricity sector while facilitating the efficient and consistent functioning of day-ahead, intraday and balancing markets;

(e) ensuring that the procurement of balancing services is fair, objective, transparent and market-based, avoids undue barriers to entry for new entrants, fosters the liquidity of balancing markets while preventing undue market distortions;

(f) facilitating the participation of demand response including aggregation facilities and energy storage while ensuring they compete with other balancing services at a level playing field and, where necessary, act independently when serving a single demand facility;

(g) facilitating the participation of renewable energy sources and supporting the achievement of any target specified in an enactment for the share of energy from renewable sources.

Standing Groups - *Updates on all standing groups relevant to CUSC panel e.g. potential for future governance changes or modifications*

~~**Governance Standing Group – Garth Graham**~~

TCMF – Karen Thompson-Lilley

European Updates - *Updates on all European developments relevant to CUSC panel e.g. potential for future governance changes or modifications*

European Code Development – Nadir Hafeez

Joint European Stakeholder Group – Garth Graham

Updates on Other Industry Codes

Grid Code

STC

SQSS

DCUSA

BSC

Relevant Interruptions Claim Report

(January, April, July, October)

Governance

None

Horizon Scan

(February, May, August, November)

Code Administrator Update

None

Any Other Business

None

Next Panel Meeting

10am on 28 April 2023 (at National Grid ESO Offices, Faraday House)

Papers Day – 20 April 2023

Modification Proposals to be submitted by – 13 April 2023

TCMF – 6 April 2023

Close

Trisha McAuley

Independent Chair, CUSC Panel