

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:	Deborah MacPherson
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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> <table border="1"> <tr> <td>Original</td> <td><input checked="" type="checkbox"/> A</td> <td><input checked="" type="checkbox"/> B</td> <td><input type="checkbox"/> C</td> <td><input checked="" type="checkbox"/> D</td> </tr> </table> <p>SPR believes the Queue Management (QM) proposals will better facilitate the applicable CUSC objectives noted above by introducing a consistent methodology which will apply to those projects which are not progressing against their agreed contractual milestones and as a result will allow for any capacity released to be allocated to projects that are able to progress to connection or to improve access arrangements for others.</p>	Original	<input checked="" type="checkbox"/> A	<input checked="" type="checkbox"/> B	<input type="checkbox"/> C	<input checked="" type="checkbox"/> D
Original	<input checked="" type="checkbox"/> A	<input checked="" type="checkbox"/> B	<input type="checkbox"/> C	<input checked="" type="checkbox"/> D			
2	Do you support the proposed implementation approach?	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>SPR support the alternative implementation proposal that will transition all Users across to consistent contract terms to ensure a fair and level playing field.</p>					
3	Do you have any other comments?	<p>As noted in the workgroup consultation, we are broadly in support of the time period noted for the milestones, however once a project has secured up to Milestone 6, then it would be very difficult to imagine any circumstances where the ESO/TO would take a firm position with respect to termination of a project at this stage unless under an extreme and exceptional circumstance.</p> <p>We also believe that where a User can evidence and justify circumstances where a different time period should be considered to apply to a milestone(s), then we would expect the ESO/TO to work with the User to take this into account.</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 provide the rationale for your response.	We recognise and welcome the engagement that has taken place with respect to the development of the Milestone Durations and that they are broadly consistent with those developed and implemented at Distribution. We do however agree with the concerns raised by the workgroup with respect to the later Milestones and the level of associated risk with projects at this stage and likelihood that they will not progress, especially if it has achieved all previous milestones. We believe greater flexibility and exceptions should be considered by NGESO and TOs where customers can evidence and demonstrate where difficulties are being experienced and should work collaboratively with the customer to agree way forward to resolve.
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.	We have no objection to the time period for the milestone durations being from the contracted completion date which takes into account of the longer lead times and complexities associated with transmission projects from a delivery perspective and in TO delivery timescales. Whilst we note this approach is not in line with the arrangements in place for distribution, we would encourage NGESO, the TOs and DNOs to continue their engagement under the ENA Open Networks Project to ensure industry learnings are shared from the differing approaches and feedback from customers. We would however have concerns regards to any action taken by NGESO and/or TOs with respect to the later milestones. Projects at this stage of development and investment have limited risk of not progressing, even in circumstances where they encounter difficulties. Whilst we recognise the concerns of risk of stranded investment, we would expect NGESO, the TOs to work collaboratively to work towards a solution where there is clear evidence of the projects viability for completion.
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	Whilst there are benefits to having a consistent QM Policy GB wide, it is recognised and accepted this may not always be possible and will require a different approach to ensure no party is discriminated against. We would however encourage NGESO, the TOs and the DNOs to continue to work together and learn from the differing approaches to ensure learnings and improvements are adopted across both D and T where possible. It is also key that parties connecting at distribution, with a transmission impact, are not disadvantaged in any way. We note that the legal text only makes reference to

	rationale for your response.	projects with BEGAs and not BELLAs. For clarity we propose the drafting is updated accordingly.
4	Do you agree with the evidence requirements proposed? Please provide the rationale for your response.	We agree with the evidence requirements as set out, however we also agree with the concerns raised by workgroup members with regards to any instances of dispute between the customer and NGESO/TO with respect to evidence requirements. Whilst we welcome the approach to set out clear evidence requirements to remove any subjectivity, there remains the risk that there could be instances of inconsistent application of the QM policy and consideration of evidence across all three TOs. We would expect NGESO and all three TOs to work collaboratively to consider examples presented in their respective network area and to ensure all would have taken the same decision.
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.	Whilst we recognise the concerns regarding risk to stranded investment and any unnecessary additional end consumer and onshore TO costs, we do not agree that the User's project should be detrimentally impacted where the outcome of any dispute and appeal process is found in their favour. We believe a clearly defined dispute/appeals process will be key in such instances of termination with timescales clearly set out in order to minimise any impact. We also suggest consideration for User notification to NGESO of their intention (or not) to appeal any termination decision as soon as possible.
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.	We believe any appeals process linked with QM Terminations should be clearly defined and timebound in order to minimise the impact to parties in circumstances of a successful appeal. This should be a key consideration when determining the most appropriate route for appeals/disputes. We agree that the dispute/appeal process should be a route of last resort as communication and engagement between parties is key to the success of the QM Policy and supporting processes.
7	Do you agree with the circumstances when Milestone Dates will be changed – the “exceptions”? Please provide the rationale for your response.	Yes. We also believe there will be circumstances where there may be additional exceptions that should be considered that are not part of the exceptions list provided. Procurement issues for example should be a reasonable consideration. A TO delay as a result of their procurement issues provides TOs with the right to take account of such delays therefore similar consideration should be given to customers who experience similar, evidenced, difficulties.

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.	We support that the default position should be as set out in the consultation. We do however believe there could be circumstances where the missed milestone cannot be rectified within the 60-day period, but the customer can demonstrate they are taking all necessary steps to rectify and achieve the missed milestone and can evidence that this may take longer than the 60-day period. In such circumstances, we believe it would be unreasonable of the NGENSO and TOs not take this into consideration as part of the contract/customer management process.
9	Do you agree with the proposed impacts on Milestones for different types of Modification Applications? Please provide the rationale for your response.	We agree that projects in place pre-CMP376 implementation should not be subject to any risk of retrospective application of the policy. We agree with the proposed impacts that the table of scenarios outlines. We would not expect any introduction of the QM milestones as a result of a TO initiated notice.
10	Does the CMP376 Original proposal or any of the potential alternative solutions impact your business and/or end consumers. If so, how?	We have no comments to this question