

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:	Charles Deacon
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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> <p>Original <input checked="" type="checkbox"/>A <input checked="" type="checkbox"/>B <input type="checkbox"/>C <input checked="" 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>Subject to clarification highlighted in below section. This should be applied to new contracts only with existing mechanisms used on signed contracts in the interests of fairness.</p>
3	Do you have any other comments?	<p>While we support efforts to speed up the connections process, we have some reservations on the detail of the proposal.</p> <p>It is unclear whether these milestones will apply to IDNO network projects. We are assuming the exclusion on BEGAs will be extended to IDNO customers. Can the Work Group please clarify?</p> <p>It is unclear what the defects are with the existing Appendix J milestone process. These are more collaborative and do allow for termination of slow-moving projects following a Mod Notice. A lot of the solutions proposed by this Mod could be resolved with more effective management of customer Appendix Js. We do recognise the issues caused by multiple date change Mod Apps to “bank” TEC, or applications made without land secured, which could be a more appropriate topic of a change proposal. This current proposal is rather blunt and could result in undue termination of viable projects, which could reduce investment and create a competitive advantage to connecting at distribution. Can the Work Group please expand on this?</p> <p>Finally, the Connections Reform process being launched by the ESO (to complete April 23) is looking at broad reform across all aspects of the connections process, with collaboration of all stakeholders. We would suggest it prudent to wait for the outcome/recommendations of this process before implementing this modification.</p>
4	Do you wish to raise a Workgroup	<p><input type="checkbox"/>Yes <input checked="" type="checkbox"/>No</p>

<p>Consultation Alternative Request for the Workgroup to consider?</p>	<p>Click or tap here to enter text.</p>
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Specific Workgroup Consultation questions

<p>1</p>	<p>Do you agree with the Milestone durations proposed? Please provide the rationale for your response.</p>	<p>We have the following concerns on the milestone durations for directly-connected projects:</p> <ol style="list-style-type: none"> 1) M1 - Technology-specific planning milestones would be more appropriate, to incorporate the nuances of consenting across technologies. For larger projects, bilaterally agreed planning milestones would be appropriate. 2) M1 - The Proposal discusses seasonality in pre-planning surveys, these surveys may be required over consecutive winter/spring seasons. In the case of earlier connections, there may not be adequate time permitted to undertake these. 3) M1 - There is no particular consideration for Environmental Impact Assessment timelines. 4) M2 - The planning milestones are too short. Many transmission projects (50 MW+ in England & Scotland, 10 MW+ in Wales or BESS 350 MW+) require a Development Consent Order, which can take many years. 5) M2 - Projects consented under the Town & Country Planning (TCPA) regime (< 50 MW in England & Scotland, < 10 MW in Wales, BESS < 350 MW) are currently facing protracted delays from Local Planning Authorities at all stages of the process. It is not clear if this is an allowable exception. 6) M2 – Consents granted under TCPA often have a 3 year validity. There is a risk that delays out of the User's control could result in projects losing consent and having to start the process again, adding to overall delays. 7) M2 – The short planning timelines could give a competitive advantage to easier to consent technologies. 8) M3 – A level of land security at application (such as an LOA) could go a long way in resolving many of the transmission queue issues. 9) M4 - This should be retained for third party works applications. While CMP328 seeks to resolve this process, these applications and works required can often delay a project. Consideration needs to be given to these impacts.
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2	<p>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.</p>	<p>The milestone durations should be from when the contract becomes effective. A contract is formed when the offer is countersigned, so this is when contractual terms like milestones should start. This will align with the established norms of connection offers.</p> <p>It would be inappropriate to start the milestones from when the offer is issued. The 3 month (or 1 month if interactive) review window is a well-established concept to review and negotiate the technical and commercial parameters of an offer.</p> <p>There may also be errors or inconsistencies in the offer and it may take a number of weeks for ESO/TO to respond to queries. This would represent dead time where the clock is “ticking” but the User cannot start development work in good faith.</p> <p>The fundability of a project often depends on a successful grid offer, with higher spend on development reserved until the offer has been returned. It would be unreasonable to expect a User to commit large spend to</p>

		development work to meet milestones, without sight of the offer.
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.	<p>Consistency is key to drive clarity and fair competition across networks, which is something the ongoing Connections Reform process should be looking to do. There is no clear reason as to why these should not be harmonised, particularly as the ENA milestones have already been agreed following extensive industry consultation, which would facilitate effective competition.</p> <p>Having a different approach at D and T could result in two different classes of customer contracting with NGENSO for TEC, who are treated differently.</p> <p>Likewise a "right to terminate" (as at present following Modification Notification) is more appropriate as it allows a collaborative approach and can account for the nuances of developing larger complex projects, which by their nature connect at transmission.</p> <p>A blunt one-size-fits-all "will terminate" approach could deter investment in new transmission projects.</p>
4	Do you agree with the evidence requirements proposed? Please provide the rationale for your response.	<p>M1 – As mentioned above, pre-planning surveys can take a significant amount of time. Demonstrable progress and investment in these should count as evidence.</p> <p>M2 – No comments</p> <p>M3 – No comments. A level of land security at application could be considered.</p> <p>M4 – To be included, completion of third party works/distribution impact assessment process</p> <p>M5 – No comments</p> <p>M6 – "Agree" is open to interpretation. The TOs must agree robust and clear guidance to ensure that standards are the same for all customers.</p> <p>M7 – Already required in Appendix J. No comments.</p> <p>M8 – As per M6, commencement is subjective and guidance should be produced.</p>
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	<p>It would seem reasonable to suspend enabling works for a specific project while a dispute is ongoing to avoid stranded TO investment. However stopping works in an entire transmission zone could cause undue delay to other projects that are progressing, which could contradict the aims of the proposal.</p> <p>It is reasonable to assume that the first projects facing termination will attempt to appeal. As such, clear timelines and processes for the appeal must be decided</p>

	provide the rationale for your response.	to give certainty on lengths of suspension, before implementation of this change.
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.	<p>No specific views, however use of the existing CUSC dispute process, which is understood, could result in a more efficient implementation.</p> <p>As above, a clear timeline and mechanism for appeals/disputes needs to be identified before implementation.</p>
7	Do you agree with the circumstances when Milestone Dates will be changed – the “exceptions”? Please provide the rationale for your response.	<p>The following should also be included:</p> <ol style="list-style-type: none"> 1) Delay in the planning process outside of the User’s control 2) Third party works/distribution impact assessment delays by the downstream DNO 3) Long-lead item delays outside of the User’s control if contracts were placed in good time 4) Any other delay outside of the User’s control, if the User has acted in good faith to meet the milestones <p>Delays by the TO/ESO can also delay a developer’s timeline, while I agree this should be an exception, it isn’t always known to the TO/ESO of the impact of their delay on the User’s development programme, as such mechanisms to allow for meaningful and timely engagement on delays should be included.</p>
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.	<p>No, as explained in question 3.</p> <p>A project may still be making good progress despite missing a milestone, the development process is fluid and rigid milestones do not allow for this.</p> <p>A consideration of evidence provided for progression should be undertaken by the TO who will be best placed to understand the investment to date, investment required and the progress a particular project will need to make. This is similar to the DNO process, where new milestone are agreed. It could be reasonable to terminate if the new milestones were then subsequently missed.</p>
9	Do you agree with the proposed impacts on Milestones for different types of Modification	It seems sensible to keep milestones the same for date Mod Apps to prevent TEC-banking. However, consideration should be given as to why a date change is required, there may be good reasons (technical,

	<p>Applications? Please provide the rationale for your response.</p>	<p>commercial, planning) as to why a connection date may need to be pushed back but the project will still be developed and built. The exceptions are too rigid to have this sort of collaborative conversation that is required.</p> <p>It would not be reasonable to include these new milestones in existing contracts that have not Mod Apped.</p> <p>Are Agreements to Vary included in this proposal? If a TO delay results in an Agreement to Vary, the milestones must be amended.</p>
10	<p>Does the CMP376 Original proposal or any of the potential alternative solutions impact your business and/or end consumers. If so, how?</p>	<p>Depending on the implementation to IDNO projects, there is a potential impact on our customers, whose projects could now face new risks of termination, this in turn would have a negative impact on our business.</p> <p>The impact on future CATOs or potential ITOs should be considered. A “one size fits all” approach may not be appropriate for these smaller networks who have less investment pressure, so it should be up to the TO to assess their investments and advise the ESO how to manage their customers, within a more collaborative framework that still ensures progression.</p>