

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
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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>Neutral for C</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>Click or tap here to enter text.</p>					
3	Do you have any other comments?	Any final solution and implementation approach will need ensure effectiveness of the policy by promoting equality between different users as to how they progress their projects and meet milestone deadlines.					
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.	Yes, based on wider industry feedback and work group discussions the proposed timelines appear to work well and take into account the precedent set by the queue management guidance from the ENA. We will need to reflect on the trigger and timing for M5 given how the contestable arrangements work at transmission across 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	<p>Dating back from the contracted completion date to the day the offer is sent to the user.</p> <p>This is most consistent across different users, simpler to apply as milestone timings are calculated at same time the contract is offered, and it is most transparent and fairest to all as it doesn't change the milestone durations if the user takes longer to sign the agreement.</p>

	becomes effective; or do you have an alternative approach? Please provide the rationale for your response.	
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>Yes. As part of the initial discussions for CMP376 with industry, there were fundamental reservations with the proposed milestone durations timings, particularly in initiating and securing planning consents. We have taken this feedback on board in our proposal and, in coordination with the Onshore TOs, made the Queue Management process more applicable to Transmission schemes, reflecting the complexity and different planning arrangements at Transmission compared to Distribution. Some key differences are:</p> <ul style="list-style-type: none"> • Timescale durations have been amended to reflect several factors, including the longer lead times, size of projects, amount of works required, catering for projects that need an Environmental Impact Assessment and seasonality in relation to planning consents; • Milestones are now applied back from the contracted Completion Date rather than forward from the Offer acceptance date. This differs from Distribution arrangements, which apply the Milestones from the Offer acceptance date; • Termination "will" happen at transmission, whereas the guidance for distribution queue management says the contract may be terminated. This is required at transmission due to the amount of projects in the contracted queue which also have an impact on distribution connection dates.
4	Do you agree with the evidence requirements proposed? Please provide the rationale for your response.	Yes. The evidence requirements are based on the ENA guidance and only differ where different principles apply at transmission level, or where the evidence requirements have been developed further with industry.
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	No. As the agreement will be terminated, any obligations under that agreement on the ESO and TOs fall away. As such, the works would not continue and be cancelled , not suspended. It would risk increasing costs for consumers and industry parties unnecessarily if the works were to continue.

	provide the rationale for your response.	
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>The process to settle disputes still needs further clarification, particularly in relation to the role of Ofgem.</p> <p>The potential options are:</p> <ul style="list-style-type: none"> a) as is today in CUSC Section 7, i.e., escalation and arbitration to Electricity Arbitration Association; b) as per CUSC Section 7, escalation but arbitration goes somewhere else such as the London Court of International Arbitration; c) it goes to Ofgem for determination; d) it goes to Independent Engineer first and then it goes to arbitration of some sort. <p>NGESO feels that a process as closely aligned with the standard CUSC process, with an option for Ofgem to make a final decision where this would be appropriate, is preferable (a combination of options a) and c)).</p>
7	Do you agree with the circumstances when Milestone Dates will be changed – the “exceptions”? Please provide the rationale for your response.	<p>Yes, the CMP376 Original recognises that there may be exceptional issues that Users cannot control, and which may lead to project delay and these Exceptions are:</p> <ul style="list-style-type: none"> • Force Majeure • Planning appeals (M2) in relation to the User’s Consents • Any delay from Transmission Licensee or the ESO
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>Yes.</p> <p>If the evidence for the Milestone has not been provided to the ESO (or is not agreed by the ESO to be sufficient) by the Milestone Date, the Termination process commences.</p> <p>In summary:</p> <ul style="list-style-type: none"> ○ ESO will first issue an “early warning notice”, giving the customer 60 calendar days to rectify the missed milestone. ○ If this is not rectified, the ESO will issue a Termination Notice. <p>To ensure effectiveness of the policy, there should be certainty amongst all industry stakeholders that missing a milestone will lead to termination and that all users are treated equally.</p>
9	Do you agree with the proposed impacts on Milestones for different types of Modification Applications? Please	<p>Yes.</p> <p>Milestone dates should not change as a result of a modification application to ensure effectiveness of the policy, unless one of the exceptions applies or if it is the first modification application of a construction agreement</p>

	provide the rationale for your response.	pre-dating CMP376 implementation, in which case milestone dates will be set based on the modification application offer date and the completion date in that offer.
10	Does the CMP376 Original proposal or any of the potential alternative solutions impact your business and/or end consumers. If so, how?	<p>As the Electricity System Operator for Great Britain, we are in a privileged position at the heart of the energy system, balancing electricity supply and demand second by second. As the UK moves towards its 2050 net zero target, our mission is to enable the sustainable transformation of the energy system and ensure the delivery of reliable, affordable energy for all consumers. This proposal better supports us in our independent position to facilitate market-based solutions which deliver value for consumers, in particular through the following ways:</p> <ul style="list-style-type: none"> • Ensuring network capacity allocated to developers is fully utilised, particularly with the transition to net zero in mind; • Network investment to facilitate User connections remains economic and efficient, minimising the impact of connections investment on end consumers' bills; • Strong commercial drivers are set so that developers keep their projects on track (in support of the two objectives above). <p>This is one of many steps towards improving the connections process via a number of reforms as set out in our Business Plan 2 ambitions.</p> <p>Any potential alternative approaches to implementation will need to ensure effectiveness of the policy by promoting equality between different users as to how they progress their projects and meet milestone deadlines.</p>