

## CUSC Alternative Form

# CMP376 WACM9: Dynamic queue management for milestones M5 to M8 and apply to all signed construction agreements (where the Completion Date is more than two years away)

**Overview:** An adjustment to the proposer's consequences of a User suffering delays to the completion of milestones M5 to M8. We propose that the ESO's immediate right of termination is removed for milestones M5 to M8 and replaced with the permanent reassignment of queue position (dynamic queue management). Projects that have met milestones M1 to M3 and thus have secured planning consent and land rights are considered to be significantly de-risked and will have incurred substantial financial investment. Therefore, it is considered more appropriate to move Users down the queue, rather than terminate their agreement, if the project is being progressed albeit at a rate slower than defined by milestones M5 to M8.

Also apply the Queue Management Process and milestones to all signed construction agreements (where the Completion Date is more than two years away on the implementation date), as well, as per the original solution, to any new applications and Modification Applications submitted to the ESO after the implementation date.

**Proposer:** Sarah Graham, Ocean Winds

## Contents

- What is the proposed alternative solution?
  - Difference between this and the Original Proposal
- What is the impact of this change?
- When will the change take place?
- Acronyms, key terms and reference material

## What is the proposed alternative solution?

It is proposed that a dynamic queue management process is codified within the CUSC. We agree with the Original Proposer's solution to codify the Queue Management Process and to update the Construction Agreement template to outline a process for management of User progress against milestones. We also agree with the Proposed Milestones, however, we propose that the ESO's immediate right of termination is removed for milestones M5 to M8 and replaced with the permanent reassignment of queue position.

Also apply the Queue Management Process and milestones to all signed construction agreements (where the Completion Date is more than two years away on the implementation date), as well, as per the original solution, to any new applications and Modification Applications submitted to the ESO after the implementation date.

## What is the difference between this and the Original Proposal?

We agree that if a User is unable to meet Milestones 1 – 3 (M1- Initiate planning consent, M2- secure consent, and M3- secure land rights), NGESO will have the right to terminate the User's agreement. However, contrarily to the Original Proposal, we propose that NGESO's immediate termination right is removed for milestones M5 to M8 and replaced with the permanent reassignment of queue position.

Projects that have met milestones M1 to M3 and thus have secured planning consent and land rights are considered to be significantly de-risked and will have incurred substantial financial investment. The User Commitment Methodology in the CUSC already reflects this principle. The Cancellation Charge Secured Amount that the User must provide reduces from 42% to 10% once the User has obtained its key consents because the risk of projects failing/terminating beyond that point is significantly reduced. **The immediate termination right proposed within the Original could result in (i) the premature termination of viable projects that would support the transition to net zero and (ii) the rise of financing costs for renewable projects due to the increased and prolonged risk perceived by lenders.** There are examples from the industry of projects that are in operation (e.g., Moray East Offshore Wind Farm) that, after achieving planning consent and securing land rights, have been delayed for various reasons not entirely within the developer's control and are now successfully constructed and operational. NGESO would have had the right to immediately terminate these projects under the Original Proposal and this would not be of benefit to the consumer. Slower build out of renewable generation will not only delay the achievement of the UK Governments' net zero objectives but it will also hinder the achievement of lower bills for consumers by delaying the timeline by which electricity prices are determined by affordable renewable generation. Offshore projects need to secure their connection agreement 7+ years (and in some cases 10+) before their first power is planned, in order to secure an onshore connection point and start planning consent along the export cable route: some delays could occur during the development of such projects, and it cannot be expected that their development timeline is fixed so many years before electricity starts being produced. Accordingly, CMP376 should be implemented to enable the advancement of the fastest progressing Projects while ensuring the CUSC changes do not lead to wider market repercussions, particularly by avoiding impacts on investment opportunities and the build out of renewable generation.

The Construction Agreement should include a requirement for Users to evidence their progress against the milestones. If a User is unable to meet the required milestone (e.g. M5 to M8), it should submit a Mod App (as soon as practicable once it knows that it will miss a milestone and can confirm its revised Completion Date, and at the latest 60 calendar days after missing the milestone) to request a revised Completion Date and revised remaining milestones, triggering a review of its position in the queue. If a User misses a milestone date, does not have an Exception and does not submit a Mod App at the latest 60 calendar days after missing the milestone, then we agree that the ESO should have the right to terminate.

The Mod App submitted by the delayed User should state the milestone that it is unable to meet, the revised milestone date(s) it is requesting and the revised Completion Date (if applicable) it is requesting. The delayed User will then be moved down the queue behind other Users that have already met the milestone that the delayed User is unable to meet. For example, if the delayed User is submitting a Mod App because it cannot meet milestone M6 then it will be moved “down the queue” to be behind the other Users that have completed milestone M6. This means that the delayed User is moved behind other Users that are able to progress quicker.

The standard Mod App process will then be followed to determine the revised milestones and Completion Date that can be offered by the ESO/TO based on the delayed User’s new queue position.

It is noted that the standard Mod App process results in the ESO/TO assessing the impact of one User’s changes on other Users. The delayed User moving down the queue may present opportunities for other Users to obtain an earlier Completion Date or improved access / removal of restrictions. The process of assessing the opportunities for other Users to benefit from the delayed User moving down the queue (similarly to the consequence of other Users benefitting from the termination of Users under the Original Proposal) is not codified and would require consequential changes to the STC. These changes to the STC will be assessed and developing in parallel to the finalisation of the Modification Report and decision by Ofgem. The impact of the delayed User moving down the queue would not adversely impact any other Users.

If the delayed User does not sign the Mod Offer that it requested, and the Milestone Date is missed, then the ESO has the right to terminate.

The delayed User is not permitted to seek an Exception after it has received a Mod Offer (for example if it decides it does not like the terms offered within the Mod Offer). If the delayed User considers it is entitled to an Exception, it should apply for the Exception as the first course of action before submitting a Mod App.

When requesting revised milestones / Completion Date through a Mod App Users must maintain compliance with the earlier milestones that have already been completed.

Users should not be able to Mod App indefinitely and therefore propose including a limit (e.g. 3 Mod Apps).

The proposed Alternative would enable the most efficient usage of limited connection capacity by avoiding delays in the connection queue and enabling fastest progressing Projects to connect first. This Alternative, as opposed to the Original Proposal, better aligns with wider UK Government market policy and regulations, which favour the fast build out of renewable generation (and investment in renewable generation which would be hindered by the Original Proposal solution to terminate projects that experience

delays against M5-M8) to provide lower prices for consumers, achieve energy security and net-zero.

Also apply the Queue Management Process and milestones to all signed construction agreements (where the Completion Date is more than two years away on the implementation date), as well, as per the original solution, to any new applications and Modification Applications submitted to the ESO after the implementation date

## What is the impact of this change?

Proposer's Assessment against CUSC Non-Charging Objectives	
Relevant Objective	Identified impact
(a) The efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence;	<b>Positive:</b> Ensures that connection arrangements are facilitated more efficiently and economically than the baseline and the proposer's original. The WACM solution provides for the efficient management of limited connection capacity (and the enabling works associated with each connection point) by allowing fastest progressing Projects to connect first and by avoiding delays in the increase of NETS capacity.
(b) 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;	<b>Positive:</b> The removal of NGEN's immediate termination right for Milestones 5 to 8 will prevent the likely increase in financing costs that would otherwise be incurred with the Original

	<p>proposal. By removing this proposed risk, the WACM is removing barriers to deployment and thus facilitating competition as well as the sale, distribution and purchase of electricity.</p> <p>By establishing a transparent and consistent dynamic queue management process, all CUSC parties will be managed more efficiently (and Users will be able to better manage their connection agreements by being rewarded/penalised for their progress), which will in turn facilitate competition by creating a levelled playing field.</p>
(c) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency *; and	<b>None</b>
(d) Promoting efficiency in the implementation and administration of the CUSC arrangements.	<p><b>Positive:</b></p> <p>The WACM reduces ambiguity in queue management and promotes efficiency in contract management.</p>
<p>*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.</p>	

## When will this change take place?

### Implementation date:

6 months after Authority Decision to allow implementation of any consequential changes to the STC.

**Implementation approach:**

As per the Original Proposal.

**Acronyms, key terms and reference material**

Acronym / key term	Meaning
ATV	Agreement to Vary
ESO	Electricity System Operator
STC	System Operator Transmission Owner Code
TO	Transmission Owner
WACM	Workgroup Alternative CUSC Modification

**Reference material:**

None