

Code Administrator 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 4 May 2023**. 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 Mullen paul.j.mullen@nationalgrideso.com or cusc.team@nationalgrideso.com.

Respondent details	Please enter your details
Respondent name:	Michelle MacDonald Sandison
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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 Code Administrator Consultation questions					
1	Do you believe that the CMP376 Original proposal and/or WACMs 1-11 inclusive better facilitate the Applicable Objectives?	Mark the Objectives which you believe each solution better facilitates:			
		Original	<input checked="" type="checkbox"/> A	<input checked="" type="checkbox"/> B	<input type="checkbox"/> C <input checked="" type="checkbox"/> D
		WACM1	<input type="checkbox"/> A	<input checked="" type="checkbox"/> B	<input type="checkbox"/> C <input type="checkbox"/> D
		WACM2	<input type="checkbox"/> A	<input checked="" type="checkbox"/> B	<input type="checkbox"/> C <input type="checkbox"/> D
		WACM3	<input checked="" type="checkbox"/> A	<input checked="" type="checkbox"/> B	<input type="checkbox"/> C <input checked="" type="checkbox"/> D
		WACM4	<input checked="" type="checkbox"/> A	<input checked="" type="checkbox"/> B	<input type="checkbox"/> C <input checked="" type="checkbox"/> D
		WACM5	<input checked="" type="checkbox"/> A	<input checked="" type="checkbox"/> B	<input type="checkbox"/> C <input checked="" type="checkbox"/> D
		WACM6	<input checked="" type="checkbox"/> A	<input checked="" type="checkbox"/> B	<input type="checkbox"/> C <input checked="" type="checkbox"/> D
		WACM7	<input checked="" type="checkbox"/> A	<input checked="" type="checkbox"/> B	<input type="checkbox"/> C <input checked="" type="checkbox"/> D
		WACM8	<input type="checkbox"/> A	<input type="checkbox"/> B	<input type="checkbox"/> C <input type="checkbox"/> D
		WACM9	<input type="checkbox"/> A	<input type="checkbox"/> B	<input type="checkbox"/> C <input type="checkbox"/> D
		WACM10	<input checked="" type="checkbox"/> A	<input type="checkbox"/> B	<input type="checkbox"/> C <input type="checkbox"/> D
		WACM11	<input type="checkbox"/> A	<input type="checkbox"/> B	<input type="checkbox"/> C <input type="checkbox"/> D
		<p>We believe the Original, WACMs 3, 4, 5, 6 and 7 all better facilitates objectives A, B and D because the proposals will drive progress in contracted offers towards connection. The Original will also promote efficiency in the implementation of CUSC arrangements, as it is the most efficient way to meet the aims of this modification. We support the Original, WACMs 3, 4, 5, 6 and 7, with the Original and WACM 7 being our preference.</p> <p>WACM 1 and 2 do not better facilitate the majority of the objectives because they enable the provision of construction plans which may be unachievable. This would increase additional work and reduce efficiency, therefore does not support objective D of the CUSC.</p> <p>WACMs 8, 9 and 11 do not better facilitate any objectives specifically as it will not promote efficiency in the implementation of CUSC arrangements, as the proposals will lead to an inefficient way to meet the aims of this</p>			

		modification, as further detailed below. We do not support WACMs 8, 9 or 11.
2	Do you support the proposed implementation approach?	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>SHET is very supportive of the implementation approach. The Original proposal presented highlights a significant improvement on the process against the Baseline. We believe there are currently many (historic) problems in the Connections Process and are very supportive of the work being done across the industry to improve this. The Implementation of Queue Management will go a long way to help drive progress in connections once they are contracted to connect. The current issues around connections are well known, but specifically, we believe this modification will support Users with contracted capacity to progress against their agreed milestones to meet their connection date. If the Users are unable to do this, we believe the solution of termination is a fair way to free up that capacity.</p> <p>We are supportive of the Original's scope and implementation which seeks to add the Milestones to contracts when already contracted projects choose to request a Modification Application. We are equally supportive of WACM 7, which looks to add milestones to already contracted projects prior to those Users requesting a Modification Application.</p> <p>We believe that repetitive modification applications year after year are a key problem with the connections queue and are glad that this modification looks to limit this by setting in key dates that need to be met (unless an exception applies).</p> <p>One of the proposals we believe should have been investigated, was a mechanism to review contracted projects prior to them getting to Milestone 1 (specifically for the projects looking to connect in ≥ 5 years). We believe an earlier mechanism could support the principles of this modification to free up contracted capacity.</p> <p>We understand that the proposed appeal process in respect of termination notices will follow Section 7.4 of the CUSC. We support this on the basis that it is a process that the User will be familiar with and allows the</p>

	<p>matter to be referred to an independent arbitrator. That said, we note that if a Termination Notice is issued, the intention is for the Construction Agreement to be terminated automatically and for work to be suspended until the appeal is determined. It is also intended that TOs will suspend all applications for the relevant part of the NETS for a set time period and/or until the appeal is resolved.</p> <p>In practice, if the required Evidence isn't provided for a Milestone, the ESO has 10 working days to notify the User of this and the User has 60 days to correct this (before a Termination Notice is issued). If a Termination Notice is issued and the User wishes to appeal it (in accordance with Section 7.4 of the CUSC), the parties have 10 business days (which could be extended) to meet to resolve the dispute and a further 10 business days (which could be extended also) to resolve any remaining matters. After which, it can be referred to arbitration. Therefore, for even relatively straightforward appeals, it could take over three months for it be settled by the parties or referred to arbitration (which could take a further three months to complete). Accordingly, <u>we do not support any proposal for TOs to suspend all applications for the relevant part of the NETS while appeals are resolved.</u></p> <p>WACM 11 is difficult to support as the user may be waiting a significant amount of time for proof of regulatory subsidies. Moreover, we would need to consider what would constitute sufficient evidence proving a user is waiting for award of a regulatory subsidy. We understand that the intention of this WACM is to reflect commercial realities of the market that are outside of the User's control. However, there is no obligation on the User to apply for government or regulatory subsidies for its project in a timely matter. Therefore, this WACM could allow for projects to stay in the queue for an unknown length of time whilst the User applies and awaits such subsidies (particularly if it has applied late in the project). Accordingly, we do not support WACM 11.</p> <p>WACMs 3 and 4 represent a positive change compared to the Original, and are a critical component of ensuring the objectives of queue management are met. These WACMs will encourage Users to seek their land rights as soon as possible, ensuring they can meet the milestone</p>
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		whilst simultaneously ensuring the Generators can obtain their exclusive rights to the land as soon as they have Grid certainty.
3	Do you have any other comments?	<p>Yes, SHET is supportive of the milestone definitions and durations proposed. We believe that the exceptions detailed in the proposal are apt and will allow for any reasonable delays in meeting a milestone protecting the Users from termination.</p> <p>SHET is not supportive of WACM 1 or WACM 2, which seeks to amend milestone 6 from 'Agree' to 'submit', on the basis it lowers the bar for the evidence required to meet the milestone. Therefore, making termination more difficult. Should a User submit a plan that is unreasonable in content, under the WACM, this is still enough to meet the milestone, whereas under the Original, Transmission Owners have the opportunity to review and agree. This amendment should be unnecessary, on the basis that the ESO has introduced a 'right to terminate' rather than a 'will terminate' for milestones 5-8, therefore even if they don't meet the milestone, it does not mean automatic termination. It should also be unnecessary as any delay in the construction plan caused by a TO or the ESO would be covered under the exceptions.</p> <p>We are very supportive of the termination process as detailed in the Original. We believe the best scenario for queue management is that projects are terminated if they are unable to meet a milestone (unless an exception applies). We believe the timescales provided in the 'milestone default notice' give ample opportunity for the User to submit evidence to meet the relevant milestone.</p> <p>We are not supportive of WACM 8 and 9 dynamic queue management because it involves excessive rework, increased workload on the ESO and TO's and it could negatively impact other Users in the queue. Dynamic queue management can lead to a significant increase in rework cycles, due to constantly having to reassess to move Users down the queue if they don't meet their milestones. It is unclear whether a User would be able to maintain its Security Cover (in accordance with the CUSC) if a dynamic queue was introduced and it was to move up or down that queue. Instead, we recommend using the termination proposal, as set out in the Original,</p>

		<p>as it is the most time efficient and effective way to manage the queue.</p> <p>WACM 10 - We do not support this WACM as it requires additional bespoke work for projects which could be mapped within defined columns in the milestone duration table.</p> <p>We support WACM 5 and 6 as we believe that projects that make it to M7 and M8 are less likely to stall, and therefore are happy to work together with the User to agree a timescale that works for both parties.</p>
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