

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:	Kate Livesey
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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 type="checkbox"/> A</td> <td><input type="checkbox"/> B</td> <td><input type="checkbox"/> C</td> <td><input type="checkbox"/> D</td> </tr> </table> <p>We don't believe there is evidence to show that CMP376 demonstrably improves the prevailing arrangements or addresses a clearly evidenced issue.</p> <p>We don't believe sufficient evidence has been provided to show that the proposal better facilitates the Objectives, nor is there sufficient evidence of the consumer benefit. We ask that the ESO and TO provide evidence of the need for this change, for example, evidence of a backlog of projects that are blocking the queue and what would happen if these projects were removed. This may go some way to provide evidence of a resulting tangible benefit to industry and/or consumers that Ofgem could use to come to a decision on this modification.</p> <p>Given the current drafting of the proposal, we anticipate there may be a marginal benefit in relation to (a) <i>The efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence</i>, although there is no evidence that any such benefit would be material. The modification may lead to more efficient utilisation of capacity, however that benefit is intricately linked with the final milestones, implementation methodology and further details yet to be determined in workgroups. Furthermore, based on our experience, there are other obligations present in the market, particularly the need to meet Capacity Market agreement obligations, that act as effective incentives for project progression.</p>	Original	<input type="checkbox"/> A	<input type="checkbox"/> B	<input type="checkbox"/> C	<input type="checkbox"/> D
Original	<input type="checkbox"/> A	<input type="checkbox"/> B	<input type="checkbox"/> C	<input type="checkbox"/> D			
2	Do you support the proposed implementation approach?	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>If evidence shows there is a need for CMP376, we support the proposed implementation approach, whereby milestones are applicable to connection agreements offered after the implementation date, and to any modification application made post-implementation.</p>					
3	Do you have any other comments?	There is a lack of evidence that this modification will meet the outcomes stated by the proposer in the consultation document:					

		<p><i>“Network capacity allocated to Users is fully utilised as quickly as possible, particularly with the transition to net zero in mind”</i></p> <ul style="list-style-type: none"> As stated in our response to question 1, we don't believe sufficient evidence has been provided to show that any backlog of projects would be reduced by introducing Queue Management. With regard to Net Zero, we hold some concerns that by introducing this proposal as currently drafted, some projects would be terminated that would be highly beneficial for meeting Net Zero commitments. Additionally, some low carbon projects may even be dissuaded from coming forward in the first place, perceiving Queue Management as a barrier to entry. <p><i>“Network investment to facilitate User connections remains economic and efficient, minimising the impact of connections investment on end consumer bills”</i></p> <ul style="list-style-type: none"> No evidence has been provided regarding the impact on investment or on end consumer bills. <p><i>“An additional commercial driver is introduced to motivate Users to keep their projects on track”</i></p> <ul style="list-style-type: none"> It is our view that there are already sufficient commercial drivers in place to ensure projects progress at pace, and these drivers are more significant than that being introduced through this modification. <p>We also note that the proposal introduces no obligations on the ESO or networks, such as required performance standards corresponding to each milestone. In fact, the modification as currently drafted would absolve the ESO or networks from any responsibility for delays on their part, whilst maintaining the threat of termination on developers. Additionally, the modification could create a perverse financial incentive for the ESO to terminate viable projects that have experienced slight delays, due to the ESO then being eligible for a termination fee payment from the User.</p>
4	Do you wish to raise a Workgroup	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

	Consultation Alternative Request for the Workgroup to consider?	At this time we don't wish to raise a WACM. However, if changes are made to the Original Proposal, such as the treatment of modification applications, we may raise an alternative.
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Specific Workgroup Consultation questions

1	Do you agree with the Milestone durations proposed? Please provide the rationale for your response.	We agree with the Milestone durations as set out in the Original Proposal. However, our agreement can't be read in isolation to our concern on the lack of evidence regarding a case for change, or our desire to see a more thorough, transparent and accessible Appeal/Dispute process (see Specific Question 6).
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 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. This method provides greater transparency to all involved parties on what the milestones will be.
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.	It's important that both processes follow the same core principle of providing fair and equitable treatment and outcomes for Users and end consumers. However, Transmission and Distribution arrangements are in some respects inherently different, and so it may be entirely appropriate that the respective Queue Management processes are not fully aligned.

4	Do you agree with the evidence requirements proposed? Please provide the rationale for your response.	<p>Generally, we agree with the evidence requirements, but with the following caveats:</p> <ul style="list-style-type: none"> • Milestone 3: Users should be allowed to redact commercially sensitive information from the relevant documents. • Milestone 5: It needs to be clear whether simply sending the design to the Transmission Owner (TO) is sufficient evidence, or if the TO needs to provide a read receipt, or formally accept the design. • Milestone 8: It's not clear what would constitute evidence here. A precise definition needs to be provided that describes evidence Users can reasonably provide.
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.	Our view stated below in question 6 is that the appeal/dispute process needs further workgroup discussion and more granular details decided upon. It's therefore difficult to comment on this question until those details have been thought through.
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>We believe any appeal or dispute process needs to be transparent and accessible, taking into account all factors contributing to any milestone delay and assessing a project on all its merits. We're concerned that if an appeal/dispute process is too strict there will be a swathe of projects falling out of the queue that would otherwise be incredibly beneficial to the electricity network and Net Zero commitments.</p> <p>We think the proposal would benefit from further workgroup discussion on the appeals/disputes process to ensure a thorough and accessible process is developed.</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 list of exceptions needs to be clear and precise, allowing for common circumstances that cause delay to projects which are outside of the User's control.</p> <p>In our experience, the TO and the ESO have been very slow to respond to questions or fulfil their obligations within the connections process, with communications</p>

		<p>often being of poor quality or inconsistent. We therefore suggest a change to the phrasing of the third exception:</p> <ul style="list-style-type: none"> • “Any delay caused or experienced by Transmission Licensee or the ESO”
8	<p>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>	<p>We would support Construction Agreement termination where Milestone Dates are missed if:</p> <ul style="list-style-type: none"> • Sufficient evidence of the need for this change is demonstrated; and • After further workgroup development we deem the appeals/disputes process and exceptions list to be thorough, transparent and accessible. <p>As the proposal currently stands, we’re concerned that too many Construction Agreements would be terminated that may otherwise progress relatively smoothly and provide benefits to the electricity network and the Net Zero commitments that have been made.</p>
9	<p>Do you agree with the proposed impacts on Milestones for different types of Modification Applications? Please provide the rationale for your response.</p>	<p>Notwithstanding our above reservations on the lack of evidence of the need for this change, we agree that Modification Applications to pre-CMP376 agreements should be brought into scope of Queue Management, and we agree that only under exceptional circumstances should the Milestones change for Modification Applications.</p> <p>The proposer believes a primary aim of Queue Management to be preventing Users from using the Modification Application process to introduce delays to their project, thereby preventing other connections from progressing. Whilst we’re not convinced there’s evidence to show this is happening, we agree that treating Modification Applications in such a way will prevent this perceived defect.</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>We expect the introduction of milestones to have minimal impact on our in-flight and future projects because we believe there to be other obligations that act as greater drivers to project progression (e.g. our obligations under the Capacity Market). This in part leads us to believe CMP376 will only have a marginal benefit for industry, as per our response to question 1.</p>