

## Code Administrator Consultation

# CMP414: CMP330/CMP374 Consequential Modification

**Overview:** This is a consequential modification which by updating Exhibit B, Section 2 and Section 11 of the CUSC enacts the CMP330/CMP374 Workgroup solution.

## Modification process &amp; timetable



**Have 5 minutes?** Read our [Executive summary](#)

**Have 25 minutes?** Read the full [Code Administrator Consultation](#)

**Have 90 minutes?** Read the full Code Administrator Consultation and Annexes.

**Status summary:** We are now consulting on this proposed change.

**This modification is expected to have a: **Medium impact****

Generators, Transmission Owners, Electricity System Operator (ESO)

**Governance route** Standard Governance modification to proceed to Code Administrator Consultation

**Who can I talk to about the change?**

**Proposer:**

Neil Dewar, Electricity System Operator (ESO)

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**Code Administrator Contact:**

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**How do I respond?**

Send your response proforma to [cusc.team@nationalgrideso.com](mailto:cusc.team@nationalgrideso.com) by 5pm on 29 June 2023.

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## Executive summary

As part of the CMP330/CMP374 Workgroup Consultation phase, the Workgroup established that rather than be assessed against the CUSC Charging Applicable Objectives in Section 14 of CUSC, Contestability would be more appropriately contained in a new Part IV within Section 2 of CUSC (Connections).

This modification enacts the CMP330/CMP374 Workgroup solution.

### What is the solution and when will it come into effect?

#### Proposer's solution:

CMP414 enacts the CMP330/CMP374 Workgroup solution, by updating Exhibit B, Section 2, and Section 11 of the CUSC. Providing a more detailed treatment of Contestable Assets and Adoption Agreement.

CMP414 can only be approved and implemented in conjunction with CMP330/CMP374.

#### Implementation date:

If CMP330/CMP374 is approved CMP414 shall be implemented on the same date.

### What is the impact if this change is made?

This modification seeks to enable more flexibility for users looking to connect to the transmission network by extending the scope of transmission assets which can be constructed/delivered by Users contestably to include sole-use infrastructure (as well as Transmission Connection Assets and User equipment as per the baseline).

Where contestability can be reasonably agreed between Users and Relevant Transmission Owners, this modification should provide increased potential for some infrastructure assets to be delivered more economically or efficiently than the baseline.

However, some adjustments to existing licencing and Price Control arrangements may be needed in the instance that contestable works are agreed for sole-use infrastructure assets, but the User fails to deliver the works as agreed, requiring the Relevant Transmission Owners to step in.

### Interactions

CMP414 and CMP330/CMP374 if approved by the Authority will have a consequential impact on the STC and STCPs.

A STC modification, [CM079 'Consideration of STC/STCP changes in relation to CMP330/CMP374'](#) has been raised.

## What is the issue?

Contestability currently sits within Section 14 Charging Methodologies under paragraph 14.7.

Following a comprehensive review of Contestability as part of the [CMP330/CMP374: Allowing new Transmission Connected parties to build Connection Assets greater than 2km in length & CMP374: Extending contestability for Transmission Connections](#) Workgroup, it was established that the existing wording is limited and insufficient for CUSC Users.

Additionally, the CMP330/CMP374 Workgroup agreed that Contestability is best suited to be assessed under Non-Charging objectives and the legal text better sits within Section 2 of the CUSC which is the proposed solution in this modification.

## Why change?

The existing CMP330/CMP374 Modification proposal will be assessed under the CUSC Charging Applicable Objectives (applicable to Section 14 only), therefore the CMP330/CMP374 Workgroup decision to relocate Contestability and the additional wording related to the CMP330/CMP374 solution to Section 2 requires assessment against the CUSC Non-Charging Applicable Objectives.

## What is the proposer's solution?

### Implementation Approach

The CMP330/CMP374 modification will be assessed against the CUSC Charging Applicable Objectives and the CMP330/CMP374 legal text proposes the deletion of Contestability from Section 14 on the basis that CMP414 proposes to relocate and expand on the existing clauses on Contestability from Section 14 of CUSC (Charging Methodologies) into Section 2 (Connections) as per discussions of the CMP330/CMP374 Workgroup and supporting legal reviews.

The rationale for the proposed changes to Section 2, the new definitions within Section 11 for Adoption Agreements and Contestable Assets, and references to Contestable Assets being included in CUSC Exhibit B are outlined within the CMP330/CMP374 Code Administrator Consultation document (Annex 2), as the modifications should be considered in conjunction with each other in terms of approval and implementation.

### Dispute Process Clarification

As part of CMP414 there are two processes to follow for Users, The Company (ESO) and Relevant Transmission Licensee in the event of a dispute.

<i>Contestability</i>	<i>Adoption Agreement</i>
As part of the Contestability section, Clause 2.23.4 discusses intervention criteria where either The Company or a Relevant Transmission Licensee can prevent the User from construction of Contestable Assets (including where they	A User who wishes to provide /construct Contestable Assets will be required to contract directly with the Relevant Transmission Licensee via an Adoption Agreement. CUSC Clause 2.24.3 specifies several principles that will be

<p>have commenced under an Adoption Agreement)</p> <p>In Clause 2.23.6, should a User believe that the criteria outlined in 2.23.4 has not been appropriately applied or justified, then they have remedy under CUSC Section 7.4 as per Other disputes and/or the dispute provisions of a Construction Agreement</p>	<p>contained as part of the Adoption Agreement.</p> <p>Should there be conflict between the Adoption Agreement and the contents of the above clause, then the Adoption Agreement will prevail.</p>
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As outlined in the Dispute Resolution section of the CMP330/CMP374 Code Administrator Consultation document (Annex 2), the CMP330/CMP374 Workgroup discussed how an Adoption Agreement would be mediated should arbitration if required. The ESO could not be classed as the arbitrator as it is not a part to the Adoption Agreement. The Authority confirmed that it would be the relevant body to address any grievances in any contractual dispute.

### Legal text

CMP414 legal text can be found in Annex 3 and the CMP330/CMP374 legal text can be found in in Annex 4.

<b>Proposer's assessment against CUSC Non-Charging Objectives</b>	
<b>Relevant Objective</b>	<b>Identified impact</b>
(a) The efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence;	<b>Neutral</b>
(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> Previous charging and connection methodologies were moved into Section 14 of CUSC. The CMP330/374 Workgroup determined that Contestability and Contestable Assets would be better aligned to Section 2 in CUSC, which would better suit competition
(c) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency *; and	<b>Neutral</b>
(d) Promoting efficiency in the implementation and administration of the CUSC arrangements.	<b>Positive</b> By moving Contestable Assets and Adoption Agreements to Section 2 of the CUSC, it ensures that CUSC arrangements for Connections are all in the same area increasing efficiency for CUSC Users and readers.
*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.	

## When will this change take place?

### Implementation date

Aligned to the implementation date (if approved by the Authority) of CMP330/CMP374.

### Date decision required by

A decision is required as soon as practical following the relevant Final Modification Reports being submitted to the Authority.

### Implementation approach

This modification can only be approved and implemented in conjunction with CMP330/CMP374.

The Connection Application Process noted in CUSC Exhibit B has been amended to reflect the removal of Transmission Connected Assets and inclusion of Contestable Assets along with an amendment to the “Application for a New Connection Form” contained within the Exhibit B.

## Interactions

- |   |   |  |                                |
|---|---|--|--------------------------------|
| <input type="checkbox"/> Grid Code              | <input type="checkbox"/> BSC                              | <input checked="" type="checkbox"/> STC      | <input type="checkbox"/> SQSS  |
| <input type="checkbox"/> European Network Codes | <input type="checkbox"/> EBR Article 18 T&Cs <sup>1</sup> | <input type="checkbox"/> Other modifications | <input type="checkbox"/> Other |

The STC and STCPs will need to be amended to take account of the processes introduced under this modification to allow contestability. A consequential STC/STCP change ([CM079 ‘Consideration of STC/STCP changes in relation to CMP330/374’](#)) has been raised.

## How to respond

### Code Administrator consultation questions

- Please provide your assessment for the proposed solution against the Applicable Objectives?
- Do you support the proposed implementation approach?
- Do you have any other comments?

Views are invited on the proposals outlined in this consultation, which should be received by 5pm on **29 June 2023**. Please send your response to [cusc.team@nationalgrideso.com](mailto:cusc.team@nationalgrideso.com) using the response pro-forma which can be found on the [modification page](#).

*If you wish to submit a confidential response, mark the relevant box on your consultation proforma. Confidential responses 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.*

<sup>1</sup> If your modification amends any of the clauses mapped out in Exhibit Y to the CUSC, it will change the Terms & Conditions relating to Balancing Service Providers. The modification will need to follow the process set out in Article 18 of the Electricity Balancing Guideline (EBR – EU Regulation 2017/2195) – the main aspect of this is that the modification will need to be consulted on for 1 month in the Code Administrator Consultation phase. N.B. This will also satisfy the requirements of the NCER process.

## Acronyms, key terms and reference material

Acronym / key term	Meaning
BSC	Balancing and Settlement Code
CMP	CUSC Modification Proposal
CUSC	Connection and Use of System Code
EBR	Electricity Balancing Regulation
ESO	Electricity System Operator
STC	System Operator Transmission Owner Code
STCP	System Operator Transmission Owner Code Procedures
SQSS	Security and Quality of Supply Standards
T&Cs	Terms and Conditions

## Annexes

Annex	Information
Annex 1	Proposal Form
Annex 2	CMP330/CMP374 Code Administrator Consultation document
Annex 3	CMP414 Legal Text
Annex 4	CMP330/374 Legal Text