

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:	Michael Holmes Daniel Kerr
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Phone number:	Click or tap here to enter text.

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 would be prepared to agree the objectives have been met if the proposed changes below, and as a result of the consultation, are implemented.</p> <p>It is arguable that objective B is not met, due to the undue discrimination introduced between transmission and distribution.</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 type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>We agree in principle with the idea of Queue Management, however the approach needs to consider several key changes to allow fair and efficient implementation.</p> <p>M5-M8 – greater flexibility needs to be shown for the post consent milestones. We believe that the project is significantly “de-risked” once planning consent and land rights have been secured such that introducing hard milestone durations and dates for M5-M8 would result in viable projects, with already substantial investment, being prematurely terminated.</p> <p>User Commitment/Cancellation charge: if termination is imposed on the generator, consideration should be given to a reduced or waived cancellation charge. Particularly if another user moves up the queue and will benefit from any wider, enabling and/or attributable works previously identified for the terminated generator.</p>					
3	Do you have any other comments?	Click or tap here to enter text.					
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	<p>Do you agree with the Milestone durations proposed? Please provide the rationale for your response.</p>	<p>We are concerned that the design of the contestable works (M5), is expected to be submitted up to 4 years prior to completion, in line with the submission of planning applications. We seek clarification on the reason for such detail to be submitted to NGESO, prior to any planning consent being obtained for the works.</p> <p>We have a concerns regarding the 18 month duration to achieve a consent. The length of this duration is largely out of the developers control, we understand this should be covered by 'exceptions' but still think the timeline for large and complex projects is extremely tight.</p> <p>We note that post consent timelines are driven by Government processes, for example the Contracts for Difference auction and associated timescales, therefore we believe there should be milestone flexibility post consent.</p> <p>We note that milestones might differ for technologies, for example large scale offshore wind has an onerous permitting process and therefore would require longer milestones durations.</p> <p>We would question whether the construction milestone is required. Once a project has taken FID it moves forward to the build stage. However if this milestone is required we would note that offshore wind is constructed over a longer period than 12 months, and the phased CfD allows approximately a three year construction period for a large project. This should be recognised in the milestones.</p> <p>The process should allow a project with a later connection date to connect earlier if another project is removed from the queue or moved back date wise.</p>
2	<p>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</p>	<p>We have no particular preference with either option. From when the offer is accepted (at the end of the offer acceptance process) would seem the most straight forward.</p>

	Completion Date back to the date the Offer 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.	There seems to be undue discrimination between distribution and transmission, with regards to the powers the DNO and NGESO have towards the termination of construction agreements. Ideally the wording should be consistent between transmission and distribution.
4	Do you agree with the evidence requirements proposed? Please provide the rationale for your response.	<p>We seek clarification on land rights, with regards to acquiring access rights to land, without purchase, such as Easements and Wayleaves. We understand these are not required for M3, but will they be required at some point? If so, when?</p> <p>We note that offshore wind has lease option agreements with the relevant body. Securing a seabed lease option could be considered for offshore.</p>
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.	Agree with suspension of work.

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.	We prefer option 5, this allows for flexibility within the process.
7	Do you agree with the circumstances when Milestone Dates will be changed – the “exceptions”? Please provide the rationale for your response.	<p>No, we do not agree with the exhaustive list of exceptions</p> <p>We believe that, at the very least, procurement delays / contractor issues (e.g. contractor goes into liquidation) and route to market issues (e.g. Government led auction timelines, failure to secure CfD or subsidy removed by government action) <u>must</u> be included as credible exceptions.</p> <p>Further consideration should be given to an expanded exceptions list that better captures the complex nature of large projects</p> <p><u>Milestone 5 - Milestone 8</u> – greater flexibility needs to be shown for the post consent milestones. We believe that the project is significantly “de-risked” once planning consent and land rights have been secured such that introducing hard milestone durations and dates for M5-M8 would result in viable projects, with already substantial investment, being prematurely terminated.</p>
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>Tolerance should be given to customers who have been able to provide written declaration accompanied by satisfactory evidence that they will be able to rectify issues outside of the 60-day period, within reason.</p> <p>We note that connection termination has an extreme impact on project development and should be considered with caution (as opposed to moving projects down the queue). It is not clear why termination has been chosen over moving projects down the queue.</p> <p>The ESO could consider major and minor milestones with minor milestones resulting in the connection date being moved back in the queue instead of termination.</p>

9	Do you agree with the proposed impacts on Milestones for different types of Modification Applications? Please provide the rationale for your response.	We agree with the impacts for each Mod app type, provided issues such as delays to planning consent and major procurement issues, force majeure, etc. will be covered by an expanded list of exceptions.
10	Does the CMP376 Original proposal or any of the potential alternative solutions impact your business and/or end consumers. If so, how?	This change would have the potential to increase project costs, as rigorous deadlines can weaken a developers negotiating position when dealing with suppliers, contractor and land owners.