

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:	Andy Vaudin
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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> <p>Original <input type="checkbox"/>A <input type="checkbox"/>B <input type="checkbox"/>C <input type="checkbox"/>D</p> <p><i>The Original Proposal does not better facilitate any of the applicable objectives in its current form.</i></p>
2	Do you support the proposed implementation approach?	<p><input checked="" type="checkbox"/>Yes <input type="checkbox"/>No</p> <p><i>We support a queue management approach. However, we do not support the Original Proposal for reasons detailed in responses below.</i></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 checked="" type="checkbox"/>Yes <input type="checkbox"/>No</p> <p><i>It is intended to propose the following alternatives:</i></p> <ul style="list-style-type: none"> • <i>Include “government/political decision ongoing” as an additional exception for all milestones.</i> • <i>Remove automatic termination from milestones M7 and M8.</i> • <i>Add a senior management escalation process up to ESO senior levels before termination decision.</i>

Specific Workgroup Consultation questions		
1	Do you agree with the Milestone durations proposed? Please provide the rationale for your response.	<i>The milestone durations proposed would only be appropriate with the inclusion of “government/political decision ongoing” as an additional exception for all milestones, and also removal of automatic termination from milestones M7 and M8. This is to prevent the inappropriate termination of projects that have invested significant development resource and have a high probability of completion.</i>
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	<i>Agreed. Provided this allows for a later “re-offer” date to be used, in the event of protracted negotiations around the original offer.</i>

	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.	
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.	<ul style="list-style-type: none"> • <i>The differences between Transmission and Distribution do create undue discrimination.</i> • <i>This discrimination is particularly evident in the different approaches to termination rights and the definitive list of exceptions for Transmission vs a non-exhaustive list for distribution.</i>
4	Do you agree with the evidence requirements proposed? Please provide the rationale for your response.	<p><i>The evidence requirements for M6 – Agree Construction Plan are not adequate. A clearly defined process is required, which includes:</i></p> <ul style="list-style-type: none"> • <i>contents and level of detail in the plan;</i> • <i>the timescales for submission and agreement;</i> • <i>and what would be allowable as reasons to reject a plan.</i>
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.	<p><i>Subject to the following alternatives:</i></p> <ul style="list-style-type: none"> • <i>Include “government/political decision ongoing” as an additional exception for all milestones</i> • <i>Remove termination from milestones M7 and M8.</i> • <i>Add a senior management escalation process up to ESO senior levels before termination decision.</i>

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><i>It is important to include an escalation process, prior to getting to an Appeals/Disputes stage (e.g. add a senior management escalation process up to ESO senior levels before termination).</i></p> <p><i>Ofgem might be appropriate for the Dispute resolution role. It is understood that there is an outstanding question about where they will be involved in appeals/disputes under the CMP376 arrangements;</i></p>
7	Do you agree with the circumstances when Milestone Dates will be changed – the “exceptions”? Please provide the rationale for your response.	<p><i>The following additional exception: “government/political decision ongoing” is required for all milestones</i></p> <p><i>Remove termination from milestones M7 and M8.</i></p> <p><i>Add a senior management escalation process up to ESO senior levels before termination.</i></p> <p><i>This is to prevent the inappropriate termination of projects that have invested significant development resource and have a high probability of completion.</i></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><i>No. Milestones M7 and M8 being missed should not lead to automatic termination.</i></p> <p><i>The following additional exception: “government/political decision ongoing” is required for all milestones</i></p> <p><i>Add a senior management escalation process up to ESO senior levels before termination.</i></p>
9	Do you agree with the proposed impacts on Milestones for different types of Modification Applications? Please provide the rationale for your response.	<p><i>Yes. Importantly including - where a pre-CMP376 Construction Agreement is subject to a Modification Application submitted after the CMP376 Implementation Date, the Milestones should be aligned to the contractual Completion Date included within that Modification Offer rather than the contractual Completion Date that existed immediately prior to the Modification Application and the duration for the “offer date to Completion Date” will use the date of issuing the Modification Offer to the User.</i></p>
10	Does the CMP376 Original proposal or any of the potential alternative solutions impact your business and/or end consumers. If so, how?	<p><i>This proposal impacts all development projects and adds an additional, unacceptable level of risk under the Original Proposal.</i></p>

