

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:	Patrick Smart
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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 checked="" type="checkbox"/> A</td> <td><input checked="" type="checkbox"/> B</td> <td><input type="checkbox"/> C</td> <td><input type="checkbox"/> D</td> </tr> </table> <p>The Proposal, if implemented promptly / effectively incorporating adaptations suggested in this response, should enable NGESO to allocate transmission capacity to those most ready to use it. We note that the original proposal defaults to termination of Construction Agreement in the event of failure to meet a Milestone. We think that a process in which users that fail to meet Milestones are pushed down the queue (and others accelerated in their stead) would better facilitate effective competition in electricity generation. However, we understand that the sheer scale of the current generator connection queue would make this approach very difficult to implement effectively in the first instance. For this reason we would cautiously support a default position of termination of Construction Agreement on the understanding that there is a fixed date for review of this position (for example, within 18 months) at which point arrangements for delay of connection for those that fail to meet milestones are progressed.</p> <p>An effective queue management procedure should allow NGESO to better meet its statutory duty to operate an economic and efficient system of electricity transmission (Applicable Objective A) and to better facilitate effective competition in electricity generation (Applicable Objective B).</p>	Original	<input checked="" type="checkbox"/> A	<input checked="" type="checkbox"/> B	<input type="checkbox"/> C	<input type="checkbox"/> D
Original	<input checked="" type="checkbox"/> A	<input checked="" 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>Click or tap here to enter text.</p>					
3	Do you have any other comments?	<p>We think that the milestone that will carry most value in enabling NGESO to better manage the GB generator grid connection queue is a pre-application project validation milestone such as a Landowner Authorisation letter (as currently applied by the DNOs) or something similar. We appreciate that there may be some debate to be had about exactly what represents the most appropriate</p>					

		<p>indication of an “early stage” project’s integrity but it is clear that the status quo, where no such milestone is required, is the wrong answer because it is enabling the anti-competitive practice of grid capacity banking. We therefore strongly encourage NGESO to include the requirement for pre-application landowner authorisation (or something similar) within the CMP376 proposals as a matter of utmost priority.</p>
4	<p>Do you wish to raise a Workgroup Consultation Alternative Request for the Workgroup to consider?</p>	<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>Regarding the timescale between milestone M1- Initiate Planning and M2 – Secure Planning Consent for the connection programmes of duration 2-3 years and 3-4 years we note that a period of only 6 months is suggested. This seems a very short window particularly if a project must be progressed via the Nationally Significant Infrastructure Projects process. We suggest that a default period of 12 months for these windows would be more appropriate.</p> <p>Regarding milestone M5 Contestable Design Works submission, our experience is that this work, assuming that it relates to design of detail suitable to support tender procurement, is typically done post financial close as part of design works necessary to support construction. We would suggest that it would be helpful to delay the M5 milestone relative to its current timeline. Maybe 3 months after the “M6 Agree Construction Plan” milestone would be more appropriate.</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</p>	<p>We agree with the approach of basing milestones on durations from the Completion date back to the date of acceptance. We think that this will leave a degree of potential for post offer fine tuning of milestone dates but this will be limited (given the fixed 3 month validity period) so should not give rise to significant additional admin burden to NGESO.</p>

	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.	We understand the justifications given for current divergence between transmission and distribution milestones. At the moment, we agree this divergence does not create undue discrimination, however we encourage NGESO and the DNOs to continue to review the differences with a view to standardising as much as is appropriate and practicable. We also encourage further consideration of the milestones that should apply to distribution connections with BEGA given that the dual agreement position potentially blurs the boundaries between treatment as distribution or transmission connected.
4	Do you agree with the evidence requirements proposed? Please provide the rationale for your response.	Yes, we agree with the evidence requirements proposed. Regarding Milestone M3 – Land Rights, we interpret the evidence suggested as applicable to the main project site only and not ancillary land rights e.g. grid route or access. We would appreciate confirmation of this interpretation. As noted in response to question 1 above, we suggest that Milestone M5 – Submission of Contestable Design could also be more clearly defined (e.g. would a preliminary design satisfy this requirement?).
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.	Yes, justified on grounds of avoiding stranded investment at cost to the customer and to avoid creation of ambiguity within the relevant Construction Agreement.

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 would <u>not</u> support Option 3 – Sent to Ofgem. We think this could give rise to complications under its wider regulatory duties and would also give rise to delay. Of the remaining options we have no clear preference at this stage.
7	Do you agree with the circumstances when Milestone Dates will be changed – the “exceptions”? Please provide the rationale for your response.	<p>In respect of milestones M1 – M4 we agree that the exception definitions proposed are appropriate but we would also suggest that they should be slightly expanded to cover circumstances of “no fault” planning delay unrelated to a planning appeal. For example, circumstances in which there is delay in the making of a decision by a local planning authority in relation to an initial planning application.</p> <p>In respect of the later milestones, we think that the risk of significant delay giving rise to sterilisation of capacity is reduced and the application of greater flexibility (to some degree) is potentially justified. For this reason, we think it would be sensible to take account of foreseeable “no fault” circumstances in which a contracted User could reasonably claim an exception in order to vary milestones M5 to M8. We think such exceptions should be clearly defined and would relate to;</p> <ol style="list-style-type: none"> 1. Fundamental change in route to market (e.g. delay in success in a CfD auction round or Government supported market reform), and 2. Supply chain driven delay (i.e. would not apply where there is delay in signing the major plant item contract by the contracted user).
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	<p>We think that a process in which users that fail to meet Milestones are pushed down the queue (and others acceleration in their stead) would better facilitate effective competition in electricity generation.</p> <p>However, we understand that the sheer scale of the current generator connection queue would make this approach very difficult to implement effectively in the first instance. For this reason we cautiously support a default position of termination of Construction Agreement on the understanding that there is a fixed date for review (for example, within 18 months) at which point arrangements</p>

	rationale for your response.	<p>for delay of connection for those that fail to meet milestones are progressed.</p> <p>We also note that the post-default rectification period of 60 days could be very tight in a lot of circumstances particularly if this coincides with a holiday period. For this reason, we would suggest a slightly longer rectification period, possibly of 90 days.</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>We are keen to see the current generator connection queue rationalised in the timeliest manner possible so, for this reason, we would support the application of new CMP376 milestones to existing Construction Agreements with the proviso that the dates could be agreed between the counterparty and NGESO based on the contracted completion dates in effect at the time of implementation.</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>As a developer, constructor and operator of major renewable generation projects, it will inevitably impact our portfolio in varying ways and degrees. However, we believe that the CMP376 arrangements will deliver net benefits to the market as a whole and, for this reason, we think they are essential to supporting effective competition in electricity generation and the delivery of decarbonisation of the electricity system by 2035.</p>