

Code Administrator Meeting Summary

Meeting name: CM079 Workgroup 7 - Consideration of STC/STCP changes in relation to CMP330/374

Date: 14/08/2023

Contact Details

Chair: **Elana Byrne ESO**, elana.byrne@nationalgrideso.com

Proposer: **Richard Woodward NGET**, richard.woodward@nationalgrid.com

Key areas of discussion

The aim of Workgroup 7 was to review the Workgroup Consultation responses and draft legal text.

Review of Actions log

The Workgroup agreed to close actions 13,14,15 and 16.

Action 11 will be closed once the Proposer checks with his legal department and shares any update required, Workgroup agreed to keep it open for now.

Review of Workgroup Consultation Responses

The Chair provided a high-level overview of the three responses received.

The Chair summarised the consultation responses. These included concerns raised about the associated CUSC proposals, which were discussed with the Workgroup to explore whether they required any refinements to the CM079 solution.

The Workgroup asked for some clarification from the Ofgem representative with regards to the costs of intervention, the penalties under the Price Control and the costs to the consumers. Clarifying that when a TO is forced to intervene and finish the build, if they incurred costs that are not their fault, how is this mitigated? Are the TOs subject to penalties? Do they risk losing some incentives?

The Ofgem representative clarified that there is an Adoption Agreement in place, to which the Proposer advised that this does provide some security but not in full.

The Proposer advised that there is a request for a meeting with the TOs and Ofgem to go into the details of those risks. The Ofgem representative asked the Proposer to share the risks and to explain the background to this meeting. The Proposer agreed to share the material and

discuss outside of the Workgroup. The Ofgem representative advised that a representative of the Price Control should also be present on the call with the TOs.

The Proposer clarified the question from the Ofgem representative with regards to the impact in other areas of the CUSC, explaining the link between the STC and the CUSC modifications with regards to the dispute process and the ambiguity of the ESO/TO roles. The Proposer's expressed that the ESO's was to not be in the middle of this dispute process as they are not party to the agreement. An observer from the ESO built on this explanation and referred to a previous conversation (with a Ofgem representative in the CUSC modification Workgroup meeting in September 2022) where it was discussed that for disputes between a TO and a User, the dispute will be referred to Ofgem.

The Ofgem representative asked a question with regards to the license changes and a Workgroup member clarified that the main concern with this is to ensure that TOs are not being unfairly penalised in the scope of contestability, and to ensure that in implementation there is enough time for the TOs to consider the impacts on the license. The Proposer advised that the if the Price Control and the Revenue Recovery mechanism are adjusted then there are likely to be changes needed to the license's special conditions where the TOs revenue return is determined.

Review of Draft Legal text

The Workgroup reviewed the Solution Map and the draft legal text.

- **Paragraphs 19.1-19.9 in STC Section D** – The Proposer referenced additional text added in the STC Section D, with specific reference to paragraph 19.9 which relates back to CUSC 2.24.3 clauses c) (Adoption Agreements will be provided on fair commercial terms) and d) (standard terms and conditions for Adoption Agreements can be requested from relevant transmission licensees). It was explained that the main changes proposed are to provide more detail in the text as to the “reasonable endeavours” the ESO and TOs are required to comply with e.g., confirmation in writing between parties, reasonable response timelines. The ESO representative will take this change and consult with the legal team.
- **Intervention Process** – The Proposer explained that the proposed change to the legal text is to clarify i) the ‘right’ of TOs to be able to intervene versus reaching an agreement to intervene (implicit in the CUSC modifications solution), ii) the ability for the TOs to exercise that right and iii) the necessity for communication in writing between parties, in a timely manner, if intervention is intended. Clarifying that if the ESO disagrees there is the dispute process that can be followed. The Proposer clarified as well that if the ESO does intervene the TOs would want to be informed as well. The ESO representative will check with the legal team on this point.

The Proposal clarified that with regards to the potential STPC modification, he doesn't feel it is required for the implementation of this modification and it can be considered afterwards if needed (therefore not expected to be impacting the decisions on the CUSC/STC modifications). It was mentioned that the STC changes should be sufficient, but a

new/amended STCP would provide more detail for the intervention process. The Chair will consult with Workgroup again on this matter before voting and update Ofgem accordingly.

Discussion on Potential Alternatives

When asked by the Chair about the prospect of any alternatives being raised, the Workgroup confirmed that none were being considered.

Review of Terms of Reference and Timeline

The Workgroup reviewed the Terms of Reference with the Chair sharing the Proposer's impact assessment to confirm that Term of Reference point b) had been duly considered by the group. The Proposer clarified that the impact assessment reflected his views, and had been discussed as part of the Workgroups and Workgroup Consultation. The Proposer noted that the Workgroup can agree or disagree with these points via voting. The Proposer considered the impact in most categories to be Neutral When considering the STC change (in isolation), but that associated CUSC changes pose an increased risk to TOs.

The Proposer agreed to provide some revised wording for point a) of the impact assessment to reflect potential negative effects from the wider modification package of which CM079 is part. With regards to point e) of the impact assessment, the Proposer clarified that the negative assessment relates to the ambiguity in roles and accountabilities between Onshore TOs and ESO for certain contestability processes set out in CUSC or STC.

The Chair reviewed the current timeline for the modification with the Workgroup. The Ofgem representative asked about the dependencies with CMP330/374 and CMP414 and wanted to clarify if they need to go together for implementation with CM079. The Proposer advised that in his perspective the CUSC modifications could be considered for approval in isolation but for implementation they should be considered as a package. The ESO representative advised that the Ofgem guidance and preference was to have all the modifications (the CUSC modifications and this STC consequential modification) with the Authority before making final decisions. The Ofgem representative is to check whether this is still the preferred course of action.

Next Steps

- The Chair to send an updated version of the legal text and the draft Workgroup Report for Workgroup consideration.
- Workgroup to provide feedback until the 25th of August.

Actions

For the full action log, [click here](#).

Action number	Workgroup Raised	Owner	Action	Comment	Due by	Status
10	WG5	ESO	The ESO to consider what supports is needed from TOs regarding CUSC 7.4 process	ESO legal to consider timelines	Ongoing	Ongoing
11	WG5	Proposer	Proposer to share updated legal text with Chair to share with ESO for their legal review	To be shared as a complete batch for version control/review	Ongoing	Ongoing
17	WG6	Code Admin	NGET/ESO reference to be checked and Code Admin to address in next housekeeping modification	NA	TBC	Open
18	WG7	Proposer	To share the material for the TOS/Ofgem meeting with the Ofgem representative	N/A	WG8	Open
19	WG7	Proposer	Meeting to be arranged between TOs and Ofgem and to include a representative from the Price control	N/A	WG8	Open
20	WG7	JJ/Proposer	To share the points of concern raised including license provisions, with Ofgem Representative	N/A	WG8	Open
21	WG7	SB	To consult with legal team on 19.9 (related to CUSC 2.24.3 c) and d))	N/A	WG8	Open
22	WG7	SB	To consult with legal team on the Intervention Criteria proposed changes	N/A	WG8	Open
23	WG7	Chair	To reach out to the respondent that didn't provide justification to the objectives assessment	Feedback received and to be shared with the Workgroup	WG8	Closed

				as part of the WG Report		
24	WG7	Proposer	To provide wording and revise point a) for the Proposer's applicable objectives assessment	Received to be included and discussed as part of WG Report	WG8	Closed
25	WG7	Chair	To check with IT with regards to the Chat issues	N/A	WG8	Open

Attendees

Name	Initial	Company	Role
Elana Byrne	EB	Code Administrator, ESO	Chair
Catia Gomes	CG	Code Administrator, ESO	Tech Sec
Richard Woodward	RW	NGET	Proposer
Michelle MacDonald Sandison	MMS	SSE	Workgroup Member
Barney Cowin	AR	Statkraft	Workgroup Member
Greg Stevenson	GS	SSE	Observer
Joe Jordan	JJ	SPT	Workgroup Member
Shabana Akhtar	SA	Ofgem	Authority Representative
Neil Dewar	ND	ESO	Observer
Stephen Baker	SB	ESO	Workgroup member