

Final Modification Report

CMP408: Allowing consideration of a different notice period for BSUoS tariff settings

Overview: Following the [approval of CMP361 WACM3](#), of an ex-ante fixed BSUoS tariff with a 9-month notice and 6-month fix, this modification seeks to amend the notice period to a 3-month notice period.

Modification process & timetable

1	Proposal Form 17 January 2023
2	Workgroup Consultation 27 April 2023 - 22 May 2023
3	Workgroup Report 20 July 2023
4	Code Administrator Consultation 16 August 2023 - 13 September 2023
5	Draft Modification Report 21 September 2023
6	Final Modification Report 13 October 2023
7	Implementation 01 April 2024

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

Have 60 minutes? Read the full [Final Modification Report](#)

Have 90 minutes? Read the full Final Modification Report and Annexes.

Status summary: This report has been submitted to the Authority for them to decide whether this change should happen.

Panel recommendation: The Panel has recommended by majority that the Proposer's solution does not better facilitate the CUSC Applicable Objectives.

This modification is expected to have a: **High impact** on Final Demand Users, Suppliers, ESO

Governance route Standard Governance modification has been assessed by a Workgroup.

Who can I talk to about the change?

Proposer:
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Code Administrator Chair:
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Executive summary

What is the issue?

Since the [CMP361 and CMP362](#) Workgroup finished in summer 2021, BSUoS costs have been much higher and more volatile. ESO data shows that the daily BSUoS Charge has not only increased but also become more volatile since 2021, reflecting the current climate for BSUoS. With the current notice period set at 9 months and the increased volatility of BSUoS costs this makes accurate forecasting increasingly difficult which can lead to less accurate tariff settings.

Ofgem consulted on their position for [CMP361 and CMP362](#) and responses indicated that BSUoS certainty was important, particularly avoiding mid-period tariff resets. Ofgem also noted in their [CMP361 decision letter](#):

“As per our minded-to decision, we continue to believe that a 3-month Notice Period strikes the appropriate balance between providing Suppliers with sufficient advance notice of charges and mitigating the risk of inaccuracy in a forecast set in advance of the timeframe to which it relates”. Therefore, [CMP408](#) has been raised to address this concern.

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

Proposer’s solution:

Notice Period: Change from 9 months to 3 months	Implementation Approach: Implementation of the amended notice period would be implemented for the next available tariff period to allow for ESO tariff publication and should come into effect for April 2024.	Industry Fund and Over recovery: Not part of CMP408 but topics to be discussed in separate but related BSUoS TCMF subgroup
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Implementation date: 1 April 2024

Workgroup conclusions: Most Workgroup members preferred the Baseline option. One Workgroup member voted that the Original Proposal better facilitated the Applicable Objectives than the Baseline.

Panel recommendation The Panel has recommended by majority that the Proposer’s solution does not better facilitate the CUSC Applicable Objectives.

What is the impact if this change is made?

The shorter notice period allows for more accurate forecasting for BSUoS costs with less risk of tariff reset during the fixed period, or even during the notice period. The Proposer believes this should allow a reduction in risks premia being charged to customers.

Interactions

A separate but linked TCMF subgroup was set up to seek input from industry on two aspects of Fixed BSUoS including considerations for a BSUoS industry fund and over recovery.

ESO

There was significant Workgroup support for two possible alternatives related to a change in a different section of the CUSC (Section 11), other than that of Section 14. As a charging proposal, [CMP408](#) cannot look to modify any other section of the CUSC (Governance Rules section 8.16.2) and therefore two consequential modifications ([CMP415](#) and [CMP416](#)) were raised at the CUSC Panel on 28 July 2023 which addresses changes in CUSC Section 11.

The CUSC Panel recommended that [CMP415](#) should proceed to Workgroup, however [CMP416](#) was rejected by the Panel Secretary and recommended to be raised as an Alternative at a reconvened joint [CMP408/CMP415](#) Workgroup.

What is the issue?

BSUoS charges are how ESO recovers the costs associated with balancing the electricity system. [CMP361 and CMP362](#) were raised to implement the recommendation of the second Balancing services Taskforce to recover BSUoS charges as a flat volumetric charge set on an ex-ante basis. This is in addition to [CMP308](#), which following its [approval in April 2022](#) will move BSUoS charges to final demand only. All were implemented 1 April 2023.

In October 2022, Ofgem consulted on their position for [CMP361 and CMP362](#) and received consultation responses indicating that BSUoS certainty is important, particularly avoiding mid-period tariff resets.

In December 2022, Ofgem approved the [CMP361 WACM 3](#), which identifies a 9-month notice and 6-month fix for BSUoS tariffs. Ofgem also noted in their [CMP361 decision letter](#):

“As per our minded-to decision, we continue to believe that a 3-month Notice Period strikes the appropriate balance between providing Suppliers with sufficient advance notice of charges and mitigating the risk of inaccuracy in a forecast set in advance of the timeframe to which it relates”.

Therefore, [CMP408](#) has been raised to address this concern.

Why change?

Since the [CMP361 and CMP362](#) Workgroup finished in summer 2021, BSUoS costs have been much higher and more volatile.

To ensure the tariffs provide Suppliers with sufficient advance notice of charges and mitigate the risk of inaccuracy in a forecast set-in advance, the ESO are proposing updating the Notice Period to 3 months. In their view, a shorter notice period allows for more accurate BSUoS tariff settings, removing the need to include risk premia in Supplier's cost forecasting.

What is the solution?

Proposer's solution

Notice Period: Change from 9 months to 3 months	Implementation Approach: Implementation of the amended notice period would be implemented for the next available tariff period to allow for ESO tariff publication and should come into effect for April 2024.	Industry Fund and Over Recovery: Not part of CMP408 but topics to be discussed in separate but related BSUoS TCMF sub-group
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Workgroup considerations

The Workgroup convened 5 times to discuss the perceived issue, detail the scope of the proposed defect, devise potential solutions, and assess the proposal in terms of the Applicable Objectives.

Consideration of the Proposer's solution

The Proposer suggested that amending the notice period for fixed BSUoS to 3-months from the current baseline of 9-months would reduce the likelihood of a BSUoS tariff reset and would minimise ESO financeability concerns. Several Workgroup members recognised the benefits of having a shorter notice period on the accuracy of forecasting. Several Workgroup members felt more evidence was required and that there was a lack of information on the impact of a reset.

As stated in their [CMP361 decision letter](#) Ofgem believe a 3-month notice period strikes the appropriate balance between providing sufficient notice of charges to Suppliers, and mitigating the risk of inaccuracy in a forecast set in advance of the timeframe to which it relates. However, evidence is needed to demonstrate a positive impact.

It was noted that there is a limitation to what evidence could be provided as implementation of Fixed BSUoS was only live as of 1st April 2023. However, the Proposer presented the following analysis (Annex 3) to support their proposed solution:

- Analysis to show increase in accuracy of forecasting by assessing the Mean Absolute Error (MAE). This analysis is based on the period from January 2021 to date. In summary, the longer the notice period the greater the inaccuracy of forecasting.
- Analysis was presented to demonstrate how the volatility of BSUoS costs have increased since the BSUoS Taskforce took place. The chart records the daily BSUoS Charge from 2015 to 2023. Prior to 2021, the BSUoS daily charge was relatively stable, but towards the end of 2021 onwards there is an increase in volatility and lack of predictability. This evidence supports a shorter notice period is more appropriate in the view of the Proposer.

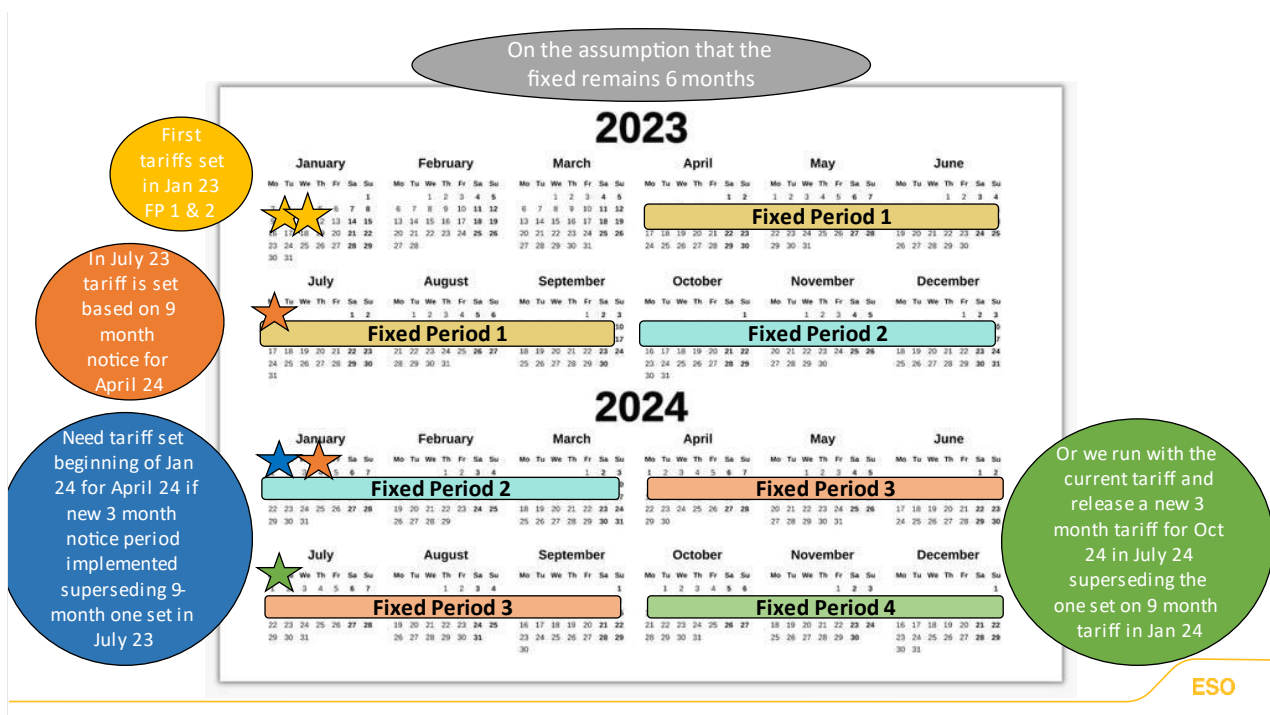
It was noted that the findings on the second BSUoS Taskforce relating to a 15-month combined period, were not based on quantitative but qualitative analysis. Therefore, this finding should be considered alongside the current BSUoS environment.

Implementation Approach:

The 3-month notice period will be implemented for the next available tariff period. This will allow for ESO tariff publication to come into effect on 1 April 2024. The 9-month notice period tariff set in July 2023 would be superseded with the new 3 months' notice period tariff. This will be released in January 2024 for the new fixed period starting in April 2024.

The Proposer noted that if [CMP408](#) is approved for a 1 April 2024 implementation date, this will interact with any previous tariff set. This issue is represented in the diagram below and assumes that the fixed period remains unchanged at 6 months.

The Proposer argued that moving to a 3 months' notice period (while BSUoS costs are generally high and volatile) would outweigh the disadvantages of republishing the tariff.



The Proposer identified 2 options here which are:

- Run with the current tariff and release a new 3-month tariff for October 2024 in July 2024. This would supersede the 9-month tariff set in January 2024; or
- Set a new tariff at beginning of January 2024 for April 2024. This would supersede the 9-month tariff set in July 2023 - **Proposer's preferred option.**

The new tariff should be implemented for April 2024 as per the specified timeline to coincide with the start of the charging year.

The Workgroup expressed no concerns with the Proposer's preferred option but implications of reducing the overall period of fixed BSUoS were discussed. By amending

the notice period from 6 to 3 months, the overall period would be reduced from 15 to 9 months. The Workgroup members felt this would increase supplier risk exposure and argued that without an industry fund it is unlikely that Suppliers would reduce risk premia.

The analysis (Annex 4) only considered the Industrial and Commercial customers whose 12-month supply contracts typically start in April or October. These contracts are typically agreed up to 3-months in advance. It was also pointed out that the analysis did not cover domestic consumers whose contracts could start any month of the year. It was argued that the overall pattern would be same (but risk premia applied could fluctuate depending on start date). There was a concern that this analysis did not show the full extent of a benefit to a longer fixed period.

The overall conclusions were:

- Suppliers argued there is more likelihood of building in risk premia as a result of [CMP408](#); and
- Workgroup members felt reducing the combined period from 15 months to 9 months increased risk.
- [CMP308](#) (implemented 1 April 2023) moved the liability for BSUoS charges fully onto Final Demand customers. Therefore, accentuating the BSUoS risk exposure on a £/MWh basis for Suppliers.

One Workgroup member felt insufficient evidence had been presented by the Proposer to show how the Original better facilitates the Baseline. The Proposer responded advising no Workgroup requests had been made for further evidence or analysis despite offering to provide more detail.

Some Workgroup members also questioned the timing of [CMP408](#) as [CMP361 and CMP362](#) had only been implemented on 1 April 2023. A Workgroup member asked if Ofgem would approve a 3-month notice, 12-month fixed if this had been presented as an option for [CMP361 and CMP362](#). The Authority representative noted any option without a fund would likely rely on a lower degree of certainty in the tariff. Ofgem stated that they remain open to different combinations of notice periods and fixed terms where there is clear consumer benefit. If there had there been a 3-month notice, 12-month fixed option, this would have been assessed it on its merits against the Applicable CUSC Objectives.

Workgroup members were concerned that the combined fixed and notice period was being reduced from 15 months to 9 months. They felt a 15-month combined period provided Suppliers with sufficient certainty allowing them to reduce the risk premia for consumers. The Proposer believes the analysis on BSUoS volatility brings into question whether a 15-month combined period is still relevant in the current climate, adding that under current BSUoS costs data, a shorter overall period is more appropriate. Therefore, ESO is not looking to increase the fixed period.

Workgroup members were concerned with the notice period being changed in isolation and argued that the fixed period and BSUoS industry fund needed to be explored at the same time. The Proposer explained that this would be discussed separately in a TCMF subgroup ensuring alignment with [CMP408](#). One Workgroup member felt it was

perplexing to separate one piece of the puzzle and felt strongly it should be considered holistically. The Proposer confirmed that [CMP408](#) would be progressed separately.

A Workgroup member proposed a potential Alternative, this would seek to change the fixed period from 6 to 12 months maintaining the overall 15-month combined period. The proposer believed this would allow Suppliers to be better placed to reduce the risk premia included.

Workgroup consultation summary

The Workgroup held their Workgroup Consultation between 27 April 2023 – 22 May 2023 and received 8 responses, one of which was confidential. The full non-confidential responses can be found in Annex 5.

The main points from the 7 non-confidential responses are as follows:

- Five respondents did not believe that [CMP408](#) Original Proposal better facilitated the objectives. Four respondents indicated they felt the Proposal negatively impacted several objectives. Two respondents felt the Proposal better facilitated objective (b). One respondent felt insufficient evidence had been provided showing how the Original better facilitates the Baseline, noting it had only been in place since 1 April 2023. They went on to say if evidence was presented to indicate failure of the current Baseline, this may change their view.
- Four respondents were not supportive of the implementation approach. One respondent expressed that the approach should only impact future tariff setting and not undo any already published. Another respondent felt shortening the notice period without extending the fixed period would lead Suppliers to build risk premia into contracts and therefore create additional costs for end consumers.
- Five respondents felt the current Baseline of 9-month notice period and 6-month fixed was the most appropriate. The same respondents indicated a preference for a 15-month combined notice and fixed period. One respondent noted that if the notice period is reduced then consideration should be given to increasing the fixed period to 12 months thus maintaining a 15-month combined period. One respondent emphasised Taskforce findings supporting a 15-month combined period were made at a time when BSUoS costs were more stable and did not reflect the current climate as BSUoS charges have increased in both volatility and uncertainty.
- Five respondents did not agree that the implementation of the tariff introduced by [CMP408](#) should supersede any prior tariff set in the current 9-month notice period. The respondents indicated this would have possible financial implications for Suppliers and lead to additional costs for consumers.
- Four respondents recognised a shorter notice period would lead to more accurate forecasting but three of these disagreed this would remove the need

to include risk premia. One respondent believed it would result in higher risk premia than from a tariff reset.

- One respondent mentioned that Ofgem had stated consumer benefit is linked to the duration of the fixed period ([decision letter 15/12/22](#)). This is where ESO publishes a BSUoS tariff likely to be in place for 12 months. The respondent felt reducing this period to 9 months undermined this statement.
- One respondent requested to raise a Workgroup Alternative to consider a 3-month notice and 12-month fixed to maintain a 15-month combined period. Another respondent suggested they may raise a future Alternative to ensure the notice and fixed period combined length remained at least 15-months.

Workgroup Consultation Summary Response Discussion

A point was raised regarding one of the responses stating the National Grid year ahead forecast was more accurate than the shorter-term forecast. The Workgroup member wanted to point out that this is not necessarily the case as it depends on several variables. The Proposer advised the word “potential” was used as nothing is guaranteed in terms of increased accuracy. However, they felt the evidence provided indicated factors going into the forecast can increase the accuracy with a shorter notice period.

Some responses indicated a preference for a longer fixed period with several members referencing 12 months. The Proposer raised the potential issue of seasonality explaining a single tariff set within a year, under some forecast scenarios, is not always guaranteed. The ESO could significantly under recover during the summer months then recover this shortfall during the winter. It was suggested, given the significant increase in BSUoS costs from 2022 to 2023, there is a risk ESO’s Working Capital would be fully utilised in summer before it is rebuilt up over the winter leading to increased likelihood of a mid-year tariff reset. The Proposer indicated this was the reason ESO have stayed with the 6 months fixed period.

A Workgroup member questioned if the 12-month fixed period could have a summer and winter tariff if it had to be the same rate for each month. The Proposer clarified a summer and winter tariff is forecast at the beginning of the 12 months and stays the same throughout the year explaining this is different from having two 6-month tariffs.

Alternative Request 1 (EON) – 3-month notice, and 12-month fixed

The Proposer of Alternative request 1 explained this had been raised to shorten the notice period and extend the fixed period. This proposal will maintain the 15-months combined period recommended by the second BSUoS Taskforce.

The Workgroup was asked by the Proposer of the Original if enough evidence had been provided to show that the longer fixed period would be more beneficial than the 6 months. One Workgroup member felt there was enough evidence for the Alternative, but another felt more analysis was required.

The Authority Representative indicated that Ofgem are open to different combinations of notice/fixed periods, but most importantly the benefit to consumers for this combination

needs to be clear. The Ofgem Rep stated it was essential to have evidence on how the 12-month fixed term is more beneficial than the current 6-month baseline and an understanding of why increasing the risk of a tariff reset would be more beneficial than including risk premia. The Workgroup Member who raised the Alternative was unable to provide evidence to the Workgroup but agreed to share information with Ofgem offline and suggested other Workgroup members to do the same if they possess supporting data.

A Workgroup member pointed out that the Original proposal should also be required to present evidence to quantify how it will benefit the end consumer. The Proposer explained that evidence/analysis already shown to the Workgroup had been done using current data but admitted this evidence was limited as fixed BSUoS had only been in place from 1 April 2023. The Proposer also stated that it was difficult from an ESO perspective, to demonstrate how increased accuracy of forecasts plays into contracts. The ESO is not privy to how supplier contracts are set and therefore, how this would impact end consumers.

Alternative Request 2 (SSE) – 3-month notice, and 12-month fixed comprising of a spring summer tariff and autumn winter tariff

The Workgroup discussed the possibility of another Alternative request following a discussion on seasonality. A Workgroup member offered to raise a further Alternative to include a seasonal/multi seasonal fixed tariff.

Alternative 2 proposed a 3 month notice period, followed by 12 months fixed, including a separate summer and winter tariff. A Workgroup member asked for clarification of the wording within the Alternative 2 Request form. This was amended to ensure it was clear that the ESO would be obliged to have separate summer and winter tariffs.

ESO Subject Matter Expert (SME) Seasonality Analysis Presentation

The ESO SME presented analysis to outline the effect of using a 12-month fixed single tariff, compared to using a split summer/winter tariff. In most cases, the split tariff would prevent excessive under-recovery of costs in the summer in comparison to winter. It was stated that the tariff was likely to be higher in the summer months than the winter months to facilitate this.

One Workgroup member queried if it would be possible for the winter rate to be higher than the summer rate and asked if this would exacerbate cashflow issues for the ESO. It was clarified that this is a risk, but a smaller risk than having a 12-month fixed single tariff.

Several Workgroup members discussed what should happen in the event of over-recovery of costs. It was suggested that this is not in the scope of modification [CMP408](#), and that this is a topic that can be discussed within the sub-group. The Workgroup agreed.

Workgroup Alternative Discussions

A vote on Workgroup Alternative Requests (Annex 7) took place in Workgroup Meeting 4.

- **Workgroup Alternative Request 1 (EON) – 3-month notice, and 12-month fixed**
- **Workgroup Alternative Request 2 (SSE) – 3-month notice, and 12-month fixed comprising of a spring summer tariff and autumn winter tariff.**

The Workgroup voted by majority (8 out of 9) that Alternative Request 1 should become a Workgroup Alternative CUSC Modification (WACM). The Workgroup voted unanimously for Alternative Request 2 to become a WACM. Three Workgroup members also declared Alternative Request 2 to be a better option than the Original and Alternative Request 1.

Although initially the Workgroup believed these Alternatives could be possible WACMs, the ESO legal team highlighted post Workgroup 4 that both Alternatives required a change to section 11 of the CUSC. As a charging proposal, [CMP408](#) cannot look to modify any other section of the CUSC (Governance Rules section 8.16.2). An urgent Workgroup meeting was arranged to inform Workgroup Members that both WACMs would need to be withdrawn.

The Chair confirmed that they had previously discussed the terms of reference and agreed that these had been met. Section c) of the terms of reference was highlighted to reassure the Workgroup that discussions surrounding the fixed period were in scope and very much relevant to this modification. The Chair advised the key point here is the word “**consider**” was used and not “**determine**.”

A Workgroup member stated it felt wrong that the fixed period (section 11) and the notice period (section 14) were defined in different sections of the CUSC. The Workgroup member was concerned that this would mean assessing the Original and consequential modifications against different objectives despite both being charging related. Several Workgroup members agreed with these comments. Another Workgroup member advised the Workgroup that this was a real governance issue and that the CUSC Panel had attempted to resolve this previously.

Ofgem were invited by the Chair to explain their previous decision against amending the governance rules to allow this to happen. Following the meeting, the Ofgem representative stated by email that the reasons not to amend the CUSC are outlined in their [CMP371](#) decision letter.

Consequential Modifications

The Proposer confirmed to the Workgroup that two consequential modifications would be raised to reflect Workgroup support given to both WACMs.

It was explained to the Workgroup that these consequential modifications would be raised alongside the Original as they are intrinsically linked to [CMP408](#). Ofgem will then have the option of approving the Original along with potentially one of the consequential modifications to amend the fixed period.

Reasons given for raising the consequential modifications were due to the results of the second BSUoS Taskforce and the reduction of risk premia based on analysis brought forward by a Workgroup Member. The Proposer specified a second reason for raising [CMP416](#) was due to the issue of seasonality raised by the ESO and highlighted as a concern by the Workgroup.

- [CMP415 – Amending the Fixed Price Period from 6 to 12 months](#)
- [CMP416 - Amending the Fixed Price Period from 6 to 12 months with two seasonal tariffs](#)

A Workgroup member questioned if these modifications are being assessed by the current CUSC baseline or [CMP408](#). The Proposer clarified that the two consequential modifications seek to amend 3 months' notice and 12 months fixed. A Workgroup member expressed their previous concern that the consequential changes were going to be assessed against different objectives despite both being charging related. It was noted that Ofgem had been consulted along with the ESO legal team due to the complexities of the situation.

Another member asked if there was a possibility of Ofgem approving [CMP408](#) and rejecting both Alternatives. Although this is a possibility, the Proposer confirmed that Ofgem have the option of approving [CMP408](#) and one of the consequential modifications depending on what they view the best option to be.

The Chair informed members that the WACMs had been removed from the original Workgroup vote. Workgroup members were advised they would not be required to vote again for the Original as they had assessed this against the correct objectives.

Workgroup members were then invited to confirm their vote for the Original proposal against the Baseline and to update their voting statement. This can be found in Annex 8.

[CMP415](#) and [CMP416](#) were raised at the CUSC Panel on 28 July 2023. The Panel agreed that [CMP415](#) (originally WACM1) should follow the Standard governance and proceed to a joint [CMP408/CMP415](#) Workgroup ahead of progressing to Code Administrator Consultation. They also agreed that [CMP416](#) (originally WACM2) was substantially the same defect as [CMP415](#) and therefore directed the Panel Secretary to reject the [CMP416](#) proposal as obligated under Section 8.16.6 of the CUSC. The intent was that the [CMP416](#) proposal would be voted in as a Workgroup Alternative CUSC Modification (WACM).

The Workgroup for [CMP415](#) took place on 2 August 2023 and the Workgroup voted unanimously that [CMP416](#) should progress to a WACM. As [CMP408](#) and [CMP415](#) are intrinsically linked, Code Administrator Consultation dates are aligned.

Legal text

The legal text for this change can be found in Annex 9. Amendments to the text are shown in red.

Section 14

Notice of Fixed BSUoS Price

14.31.9 Users are given a notice period of at least ~~three~~ **nine** months of the Fixed BSUoS Price, for the next Fixed Price Period.

~~14.31.10 Paragraph 14.31.8 does not apply for the first Fixed Price Period, where a notice period of at least six months will be given for the Fixed BSUoS Price.~~

What is the impact of this change?

This modification is expected to have a high impact on Final Demand Users, Suppliers and the ESO.

A shorter notice period should allow for more accurate forecasting reducing the need for risk premia. The additional accuracy means there is less risk of needing to reset the tariff within the fixed period.

Proposer's assessment against Code Objectives

Relevant Objective	Identified impact
(a) That compliance with the use of system charging methodology facilitates effective competition in the generation and supply of electricity and (so far as is consistent therewith) facilitates competition in the sale, distribution and purchase of electricity;	Positive The shorter notice period allows for more accurate forecasting for BSUoS costs, therefore allowing a reduction in risk premiums being charged to consumers.
(b) That compliance with the use of system charging methodology results in charges which reflect, as far as is reasonably practicable, the costs (excluding any payments between transmission licensees which are made under and accordance with the STC) incurred by transmission licensees in their transmission businesses and which are compatible with standard licence condition C26 requirements of a connect and manage connection);	Positive The proposal improves cost reflective charging due to a shorter notice period, meaning that forecasts should be more accurate.
(c) That, so far as is consistent with sub-paragraphs (a) and (b), the use of system charging methodology, as far as is reasonably practicable, properly takes account of the developments in transmission licensees' transmission businesses;	Positive The proposal supports implementation of the recommendation of the second Balancing Services Task Force by addressing industry concerns about a shorter notice period will allow for increased accuracy on BSUoS forecasting.
(d) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency *; and	Neutral No impact
(e) Promoting efficiency in the implementation and administration of the system charging methodology.	Positive The proposal supports the overall aim to implement an ex-ante BSUoS solution with the

	greatest overall benefit. A shorter notice period means the tariff is likely to be more accurate with less risk of tariff reset during the fixed period, or even during the notice period.
**The Electricity Regulation referred to in objective (d) 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.	

Workgroup Vote

The Workgroup met on 11 July 2023 to conduct the vote. The full Workgroup vote and statements can be found in Annex 8. The table below provides a summary of the Workgroup members view on the best option to implement this change.

The Applicable CUSC charging Objectives are:

- a) That compliance with the use of system charging methodology facilitates effective competition in the generation and supply of electricity and (so far as is consistent therewith) facilitates competition in the sale, distribution, and purchase of electricity;
- b) That compliance with the use of system charging methodology results in charges which reflect, as far as is reasonably practicable, the costs (excluding any payments between transmission licensees which are made under and accordance with the STC) incurred by transmission licensees in their transmission businesses and which are compatible with standard licence condition C26 requirements of a connect and manage connection);
- c) That, so far as is consistent with sub-paragraphs (a) and (b), the use of system charging methodology, as far as is reasonably practicable, properly takes account of the developments in transmission licensees’ transmission businesses;
- d) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency *; and
- e) To promote efficiency in the implementation and administration of the system charging methodology

*The Electricity Regulation referred to in objective (d) 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.

The majority of voters felt the Baseline was the preferred option. Of 9 votes, one voter said the Original better facilitated the Applicable Objectives than the Baseline.

Option	Number of voters that voted this option as better than the Baseline
Original	1

Workgroup Member	Company	BEST Option?	Which objective(s) does the change better facilitate?
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Alice Taylor	ESO	Original	a, b, c, e
Damian Clough	SSE	Baseline	
Dimuthu Wijetunga	Shell Energy	Baseline	
George Moran	Centrica	Baseline	
Kate Livesey	Drax	Baseline	
Monika Hudakova	OVO	Baseline	
Niall Coyle	EON	Baseline	
Robert Longden	Eneco Energy Trade BV	Baseline	
Simon Vicary	EDF	Baseline	

Code Administrator Consultation Summary

The Code Administrator Consultation was issued on the 16 August 2023 closed on 13 September 2023 and received 7 non-confidential and 0 confidential responses. A summary of the responses can be found in the table below, and the full responses can be found in Annex 10.

Code Administrator Consultation summary	
Question	
Do you believe that the CMP408 Original Proposal better facilitates the Applicable CUSC Objectives?	<p>Five respondents stated the Baseline better facilitates the CUSC objectives than the Original Proposal.</p> <p>One respondent stated the Original Proposal better facilitates objectives a, b, c, and e.</p> <p>One respondent stated the Original Proposal better facilitates objective b</p>
Do you support the proposed implementation approach?	<p>Three respondents stated they support the proposed implementation approach.</p> <p>One of these respondents indicated they only support the implementation of CMP408 on the basis that CMP415 Original or CMP415 WACM1 is also implemented. The respondent stated they did not support the implementation of CMP408 on its own.</p>
Do you have any other comments?	<p>Two respondents supportive of the Original Proposal gave the following reasons:</p> <ul style="list-style-type: none"> • Supports recommendation from the second BSUoS Task Force of a shorter period to allow increased accuracy of forecasting. • Improved forecast accuracy improves cost reflective charging reducing the likelihood of tariff resets.

	<ul style="list-style-type: none"> • More accurate tariff setting will allow a reduction in risk premiums for the end consumer therefore facilitating effective competition. • With the combined 15-month tariff from CMP415 all suppliers would be passing BSUoS to customers on similar of not the same prices. <p>The respondents not supportive of the Original Proposal gave the following reasons:</p> <ul style="list-style-type: none"> • Contravenes the recommendation of the BSUoS Task Force of a 15-month combined notice and fixed period. If a shorter notice period is necessary, then CMP415 should be implemented so as not to erode the benefits of CMP361 and CMP362. • Increases risk exposure for suppliers on fixed contracts increasing the likelihood of including risk premium and overall costs to consumers • Does not provide sufficient certainty for non-domestic suppliers who agree contracts many months in advance and fix contracts for 2-3 years. • No clear benefits to the consumer stated. • The notice and fixed period should have been considered together, alongside other BSUoS issues, following the implementation of CMP361.
Legal text issues raised in the consultation	
No legal text issues were raised by the respondents.	
EBR issues raised in the consultation	
No EBR issues were raised by the respondents.	

Panel Recommendation vote

The Panel met on the 29 September 2023 to conduct their recommendation vote. The Panel recommended by majority that the Proposer's solution does not better facilitate the CUSC Applicable Objectives.

Vote 1: Does the Original facilitate the objectives better than the Baseline?

Panel Member: **Andrew Enzor**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Overall (Y/N)
Original	No	Neutral	Neutral	Neutral	Neutral	No
Voting Statement						
<p>In isolation, reducing the notice period without increasing the fix period is detrimental against objective (a) by reducing certainty of BSUoS and increasing the need for risk premia in supply contracts, the requirement for which varies materially across different suppliers, hence the negative impact on objective (a).</p> <p>When considered alongside either the Original or WACM1 for CMP415, this negative impact is eliminated, with the reduction in the likelihood of a mid-period tariff reset better facilitating objective (a).</p>						

Panel Member: **Andy Pace**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Overall (Y/N)
Original	No	Neutral	Neutral	Neutral	Neutral	No
Voting Statement						
<p>A key benefit of moving to an ex-ante BSUoS tariff is from the likely reduction in risk premia to end consumers. CMP408 on its own would have two impacts: reduce the notice period to 3 months and lead to an overall combined period that is 9 months instead of the 15 months recommended by the second BSUoS taskforce. Although BSUoS may be more volatile since the recommendations of the second BSUoS Taskforce it is not clear that a solution that diverges from the 15 month total period is in consumers interests overall.</p> <p>Reducing the notice period would reduce the potential for suppliers to pass on fixed tariffs in fixed customer contracts with reduced risk premia which would logically reduce the benefits to consumers of BSUoS charging reform. To mitigate this there would need to be at least an equivalent increase in the benefits to consumers from improved forecast accuracy. However, it is unclear to what extent the solution does this. We assess CMP408 as negative against applicable objective (a) as it does not facilitate competition in the supply of electricity and our preference is for the baseline compared to CMP 408 on its own.</p> <p>However, we consider CMP408 and CMP415 should be treated by Ofgem with a common decision in order to maintain the overall 15 months period recommended by the second BSUoS Taskforce. Therefore, if Ofgem intends to implement CMP415 we believe it is necessary to also implement CMP408. In comparing the combination of CMP408/CMP415 (3 months' notice and 12 months fixed) with the baseline of 9 months' notice and 6 months fixed (as a result of CMP361/362) we do not believe there is a clear evidence base to indicate which option delivers greater overall benefits to consumers. The updated impact analysis produced for CMP361/362 found a preference for 3 months' notice and 12 months fix. However, it did not compare this with the solution which was then implemented (9 months' notice and 6 months fix). It is likely to be necessary for further impact assessments to be conducted, factoring in expectations on BSUoS volatility. The range of potential further modifications to fixed</p>						

BSUoS tariffs indicates a holistic assessment may need to be made to determine the overall package that best delivers benefits to end consumers.

Panel Member: **Binoy Dharsi**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Overall (Y/N)
Original	No	Neutral	Neutral	Neutral	Neutral	No

Voting Statement

In isolation to CMP415 this modification does not better facilitate the Applicable objectives. If CMP408 were to be approved to create a new baseline in which a variant of CMP415 was also approved, then in combination CMP408 would meet relevant CUSC Objectives (b).

Panel Member: **Cem Suleyman**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Overall (Y/N)
Original	No	Yes	Neutral	Neutral	Neutral	No

Voting Statement

Assessed in isolation, no evidence has been presented that demonstrates that as a result of reducing the notice period the assumed improvement in BSUoS forecasting capability will make up for the reduction in supply contracts the fixed BSUoS price will apply to. Therefore, CMP408 does not better facilitate the Applicable CUSC Objectives.

Panel Member: **Claire Huxley**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Overall (Y/N)
Original	Yes	Yes	Yes	Neutral	Yes	Yes

Voting Statement

Overall, the ESO believes that the Original Proposal of amending the notice period from 9 months to 3 months is beneficial to end consumers and suppliers by facilitating applicable CUSC objectives (a), (b), (c) and (e) better than the current Baseline.

A shorter notice period can allow for more accurate forecasting of BSUoS costs which can lower risk premia for the end consumers. This facilitates effective competition by removing lowering the need for risk premia to be included.

A shorter notice period improves cost reflective charging by improving forecast accuracy.

It supports the recommendation of the second BSUoS Taskforce which addresses industry concerns regarding a shorter notice period to allow for increased accuracy of forecasting.

(e) The proposal supports the overall aim of Fixed BSUoS in which a shorter notice period can reduce the likelihood of tariff resets within a fixed period.

The ESO believes that the Original Proposal to amend the notice period from 9 months to 3 months is the best solution. It offers the balance between providing suppliers with sufficient notice of charges, whilst allowing the ESO to provide a forecast for charges closer to the fixed period. A reduced notice period can reduce the likelihood of tariff resets within a fixed period which is a fundamental feature of Fixed BSUoS. This can allow suppliers to build less risk premia into prices which are passed onto end consumers. The shorter notice period can also account for any over/under recovery that may have occurred within a fixed period, to be built into future BSUoS tariffs. In the case of any over-recovery the shorter notice period can allow these funds to be returned to suppliers which ultimately pass through to end consumers, quicker through the tariff setting process.

We also recognise that this proposal of a reduced notice period is in line with Ofgem's minded to decision to mitigate the risk of inaccuracy in forecasting BSUoS costs whilst still offering enough advance notice of charges.

Panel Member: **Garth Graham**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Overall (Y/N)
Original	No	Neutral	Neutral	Neutral	Neutral	No
Voting Statement						
No voting statement provided.						

Panel Member: **Grace March**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Overall (Y/N)
Original	No	Yes	Neutral	Neutral	Neutral	No
Voting Statement						
<p>The 3 month notice period will allow for better forecasting and so lower risk of over or under recovery. This protects the ESO's financial position in the case of under-recovery and prevents over-recovery from consumers (which would be rectified in later tariffs) in the case of over-recovery. It is therefore positive against ACO b. The lower risk of under-recovery will reduce the risk of a mid-tariff reset. This could be viewed as being good for consumers and improving competition between suppliers, as they would not have to apply that risk into their pricing, but the reduced notice period means that, for suppliers who offer fixed period prices inclusive of BSUoS, there is an overall increase in risk as the BSUoS rate for later periods is unknown. This nets in a negative impact to competition between suppliers, so is negative against ACO (b). As I believe Ofgem considered the ESO would be able to manage the financial risk to a longer notice period, albeit potentially sub-optimally in order to approve the current baseline, the negative effects to competition outweigh the positives of ACO b and the</p>						

modification, on a stand-alone basis, is overall negative against the applicable objectives.

A longer fixed period, such as proposed by CMP 415, would negate most of the negative effects on competition, as fixed price tariffs within the notice+fixed period would cease to have BSUoS as a variable. CMP408 reduces the notice+fixed period so increases risk but in combination with a longer fixed period, the risk faced by suppliers is similar to or slightly better than the baseline, as an improved forecast should lower the risk of a mid-tariff reset. As long as the total fixed+notice period is similar to the baseline, there would be minimal impact to the ESO's working capital.

Panel Member: **Joseph Dunn**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Overall (Y/N)
Original	No	Neutral	Neutral	Neutral	Neutral	No

Voting Statement

Negative against Objective (a) – the proposal does not provide suppliers with cost certainty - this is particularly with respect to non-domestic suppliers where contracts are agreed well in advance and fixed for e.g. 2 – 3 years. The proposal will result in raising risk premia. It's also worth noting that the proposal does not align (or goes against) the BSUoS Taskforce recommendation of Notice Period + Fixed Period to be at least 15 months.

Panel Member: **Paul Jones**

	Better facilitates AO (a)?	Better facilitates AO (b)?	Better facilitates AO (c)?	Better facilitates AO (d)?	Better facilitates AO (e)?	Overall (Y/N)
Original	No	Neutral	Neutral	Neutral	Neutral	No

Voting Statement

It is recognised that BSUoS costs have become more volatile recently, particularly in response to difficult market conditions that have existed in energy markets globally. CMP408 effectively moves part of the responsibility for managing the risk associated with this from the ESO to BSUoS payers (ie suppliers and ultimately customers). Fixed price BSUoS was introduced on the basis that the ESO is in a better position to manage BSUoS volatility risk than suppliers. The price becoming more volatile has not changed that position.

It also doesn't seem to be the case that current BSUoS costs pose a significant risk to the ESO at present. Information on the ESO website (Fixed Tariff Revenue vs Costs Report) shows a healthy surplus of revenue over costs paid out, with this forecast to stay high through the period of current fixed prices. Therefore, there doesn't seem to be any offsetting purpose to pass the risk in the manner proposed, to parties who are less well equipped to manage it.

Vote 2 – Which option is the best?

Panel Member	BEST Option?	Which objectives does this option better facilitate? (If baseline not applicable).
Andrew Enzor	Baseline	N/A
Andy Pace	Baseline	N/A
Binoy Dharsi	Baseline	N/A
Cem Suleyman	Baseline	N/A
Claire Huxley	Original	a,b,c,e
Garth Graham	Baseline	N/A
Grace March	Baseline	N/A
Joseph Dunn	Baseline	N/A
Paul Jones	Baseline	N/A

Panel conclusion

The Panel has recommended by majority that the Proposer's solution does not better facilitate the CUSC Applicable Objectives.

When will this change take place?

Implementation date

1 April 2024

Date decision required by

To allow the ESO time to publish a final tariff under the approved methodology a decision is required by Ofgem by November 2023.

Implementation approach

The 3-month notice period will be implemented for the next available tariff period. This will allow for ESO tariff publication to come into effect on 1 April 2024. The 9-month notice period tariff set in July 2023 would be superseded with the new 3 months' notice period tariff. This will be released in January 2024 for the new fixed period starting in April 2024.

Interactions

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

A separate but linked TCMF subgroup was set up to seek input from industry on two aspects of Fixed BSUoS including considerations for a BSUoS industry fund and amendments to the fixed period and over-recovery.

¹ If the modification has an impact on Article 18 T&Cs, it will need to follow the process set out in Article 18 of the Electricity Balancing Regulation (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.

Two consequential modifications ([CMP415](#) and [CMP416](#)) were raised at the CUSC Panel on 28 July 2023 to be considered alongside [CMP408](#).

Acronyms, key terms and reference material

Acronym / key term	Meaning
BSUoS	Balancing Services Use of System charges
CMP	CUSC Modification Proposal
CUSC	Connection and Use of System Code
EBR	Electricity Balancing Guideline
ESO	Electricity System Operator
SME	Subject Matter Expert
TCMF	Transmission Charging Methodologies Forum
WACM	Workgroup Alternative Code Modification

Reference material

- [CMP 361/362 - Minded to decision and draft impact statement](#)
- [CMP 361/362 - Second Ofgem Consultation](#)
- [Ofgem response to publication of the final report of the second BSUoS Task Force](#)
- [Final Report - Second Balancing Services Charges Task Force](#)
- [Targeted Charging Review: Decision and Impact Assessment](#)
- [CMP415 - Amending the Fixed Price Period from 6 to 12 months](#)

Annexes

Annex	Information
Annex 1	Proposal form
Annex 2	Terms of reference
Annex 3	Supporting analysis from Proposer
Annex 4	Supporting analysis of the impact on Suppliers
Annex 5	Workgroup consultation non-confidential responses and summary
Annex 6	Seasonality Analysis
Annex 7	Workgroup Alternatives
Annex 8	Workgroup Vote
Annex 9	Legal Text
Annex 10	Code Administrator Consultation Responses