

Code Administrator Meeting Summary

Meeting name: CMP420: Treatment of BSUoS Revenue Recovery and creation of a BSUoS Fund Workgroup Meeting 1

Date: 16/11/2023

Contact Details

Chair: Jonathan Whitaker, National Grid ESO jonathan.whitaker@nationalgrideso.com

Proposer: Damian Clough, SSE Damian.Clough@sse.com

Key areas of discussion

The aim of Workgroup 1 was to agree the timeline and terms of reference for the modification, and to discuss the solution.

Introduction and Code Modification Process Overview

The Chair gave an overview of the agenda, a brief explanation of the code modification process and explained the expectations of Workgroup members. The Workgroup members then introduced themselves to one another.

Terms of Reference

A Workgroup member queried and asked for a bit more information around point 4 of the terms of reference. The technical secretary sought further clarification from panel minutes and was able to advise that the Panel agreed terms of reference as seen on the slide.

It was later decided in the Workgroup to delete terms of reference 4 and replace it with “Assess the implications of interest being applied to over/under recovery”. There is an action for the Workgroup to refine and consider the terms of reference for discussion at the next Workgroup.

Timeline

A Workgroup member queried the consultation date being over the Christmas period and suggested moving this to after the Christmas period to allow industry time to engage. The Chair agreed to amend the timeline and for presentation to the CUSC Panel in November.

Furthermore, whilst discussing the timeline the Authority representative mentioned that Ofgem has requested HM Government consider increasing the ESO's Working Capital Facility (WCF) in the transition to the FSO for effective risk management of balancing charges. The decision will be taken by HM Government in the round and, although there's no fixed date for the decision, Ofgem expects to have a position within Q1 2024.

Proposer Presentation

The Proposer shared the slides on the background and the reasons for raising the modification and highlighting the current defect which can be found in the [Workgroup meeting 1 papers slidepack](#).

The Workgroup discussed the following:

A Workgroup member queried part of the Proposer's solution on a BSUoS Fund pointing out that this was discussed with the TCMF Sub Group and that it was discounted as an option due to the fund being subject to 25% corporation tax. A Workgroup member required clarification around tax treatment with a Workgroup member responding that as things stand, the ESO receives a tax allowance based on its internal activities. However, external balancing costs are outside the scope of this and ESO does not receive any tax allowance for this. Until this financial year this was not an issue as under the variable BSUoS tariff costs and revenues were equal and opposite so there was no tax impact. With the introduction of a fixed tariff regime that is no longer the case. The ESO bears the tax risk for an over-collection in these circumstances on the basis that any tax payable would be offset by an equal tax loss within a couple of years (rules around utilisation of tax losses mean it may take longer for the ESO to be kept whole but the theory still applies). If a fund is created however, the ESO faces an immediate tax liability for amounts charged as a fund with no foreseeable loss to offset this liability, so the tax liability (25%) would need to be added to fund invoices creating an immediate cost, with no benefit, to consumers.

A Workgroup member asked if a fund was held by another party other than the ESO, if the same tax liability would stand. A Workgroup member thought this could create further issues on control over the fund, such as how long it takes to access the fund and what impact that would be on when a decision would need to be made to reset tariffs.

A Workgroup member highlighted the dependencies of this modification on several factors, including the move to the FSO and what the BSUoS WCF could be and the decision on existing modifications CMP408 and CMP415. If the future WCF is higher than the current value of £300m then this could mitigate the need for an additional risk management method such as that of a BSUoS Fund.

A Workgroup member queried with the Proposer on the interest part of the solution, whether solving the defect through placing a mechanism within the license as opposed to codifying a solution might be more appropriate. The Proposer responded they would be open to the idea if amending the license could be carried out in a reasonable amount of time.

A Workgroup member clarified that interest is already dealt with within the license but currently silent in the CUSC and so this modification could be an opportunity to deal with this in the CUSC and reflect interest for any over/under recovery.

The ESO license includes a K mechanism for BSUoS charges. This mechanism applies to a financial year and calculates interest at the average value of SONIA (Sterling Overnight Index Average) plus 1.15%. The CUSC makes no reference to interest and instead applies k to tariff setting. k refers to the current 6 month tariffs (rather than a financial year) and puts the principal amount only of over or under collection from prior tariffs into the tariff that is being set. A Workgroup member asked whether there is consideration for retrospective charges for interest. There was overall agreement from the Workgroup that there would not be consideration for applying interest retrospectively.

The Workgroup member highlighted that the workgroup needs to find a solution to put the interest that calculates on K into charges. A Workgroup member suggested that whatever change is reflected in the CUSC on interest should be inclusive to any future changes surrounding notice and fixed period for BSUoS to ensure a further modification is not needed. *[Note that the difference in mechanisms between license and CUSC is referred to, by case, as capital K in the license and lower case k in CUSC].* A Workgroup member suggested looking

at how interest is dealt with for TNUoS charges and if that can be reflected within BSUoS charges.

The Proposer confirmed they do not at this stage have a proposed solution and would consider and share the proposed solution ahead of the next Workgroup.

Cross Code Impacts

The Proposer considered there to be no cross code impacts and the Workgroup agreed.

AOB

Discussions were held around whether CMP420 should take into consideration CMP415 (which looks at amending the Fixed Price Period from 6 months to 12 months) potentially being approved. The Proposer confirmed that a modification proposal cannot be raised dependent on an outcome from another modification and that a solution would need to be more general and not dependent.

Next Steps

The chair summarised the next steps as follows:

- Chair to amend the timeline and present to Panel;
- Proposer to present solution to Workgroup;
- All workgroup members to consider terms of reference.

Actions

Action number	Workgroup Raised	Owner	Action	Comment	Due by	Status
1	Workgroup 1	Chair	Amend timeline to run workgroup consultation after the Christmas period		Workgroup 2	In Progress
2	Workgroup 1	All	Consider the terms of reference		Workgroup 2	In Progress
3	Workgroup 1	Proposer	Present solution		Workgroup 2	In progress

Attendees

Name	Initial	Company	Role
Jonathan Whitaker	JW	Code Administrator, ESO	Chair
Tammy Meek	TM	Code Administrator, ESO	Tech Sec
Damian Clough	DC	SSE	Proposer
Alexis Rigas	AR	Brook Green Supply	Workgroup Member
Alice Taylor	AT	ESO Representative	Observer
Craig Bell	CB	National Grid	SME
Mark Field	MF	Sembcorp Energy (UK) Ltd	Workgroup Member
Monika Hudakova	MH	OVO Energy	Workgroup Member

Niall Coyle	NC	Eon	Workgroup Member
Nick Everitt	NE	National Grid	SME
Pedro Arcain	PA	Ofgem	Observer
Robert Longden	RL	Cornwall Insight	Workgroup Member
Simon Vicary	SV	EDF Energy	Workgroup Member