

Modification Proposal:	System Operator Transmission Owner Code (STC) CM094: Amendment to Bi-annual estimate provisions (CM094)		
Decision:	The Authority ¹ has decided to reject ² this modification proposal		
Target audience:	National Grid Electricity System Operator ('NGESO'), Parties to the STC, the STC Panel and other interested parties		
Date of publication:	11 June 2024	Implementation date:	N/A

Background

The Offshore Transmission Network Review ('OTNR') was launched by government in July 2020 to ensure that transmission connections for future offshore wind generation were delivered in an optimal way, considering the United Kingdom's ambitions for offshore wind energy in achieving Net Zero. The government's Ten Point Plan for a Green Industrial Revolution, published in November 2020,³ set an ambitious offshore wind target of 40GW by 2030. In April 2022, the government announced a new British Energy Security Strategy ('BESS'),⁴ which built on previous offshore wind targets to set an ambition of 50GW of offshore wind by 2030. To achieve the objectives of the OTNR, four workstreams were established operating in parallel, including the Pathway to 2030 ('PT2030').⁵

One of the objectives of the PT2030 workstream is to ensure that all network infrastructure (both onshore and offshore) necessary to connect projects in scope, is designed in a co-ordinated manner with an optimal engineering solution.

¹ References to the "Authority", "Ofgem", "we" and "our" are used interchangeably in this document. The Authority refers to GEMA, the Gas and Electricity Markets Authority. The Office of Gas and Electricity Markets (Ofgem) supports GEMA in its day to day work. This decision is made by or on behalf of GEMA.

² This document is notice of the reasons for this decision as required by section 49A of the Electricity Act 1989.

³ [The ten point plan for a green industrial revolution - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/ten-point-plan-for-a-green-industrial-revolution)

⁴ [British energy security strategy - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/publications/british-energy-security-strategy)

⁵ [Decision on Pathway to 2030 | Ofgem](https://www.ofgem.gov.uk/consult/condocs/pt2030/pt2030.htm)

The Holistic Network Design ('HND')⁶ was published by National Grid Electricity System Operator ('NGESO') in July 2022 as part of the PT2030 workstream, with the objective to develop a co-ordinated approach to offshore wind connections, whilst ensuring an appropriate balance between environmental, social, and economic costs.

OTNR: Decision on asset classification

On 19 October 2022, the Authority published a decision⁷ on the classification of assets included in the HND into three categories: onshore transmission (reinforcement), radial offshore (or point-to-point) transmission and non-radial offshore transmission. The purpose of the decision was to provide further guidance on the delineation between onshore and offshore assets within the HND and classification was based on the purpose for which the asset is constructed, rather than the physical location of the asset itself. The assets included in the HND will be used for activities which require a licence under current legislation, with licence conditions varying dependent on the appropriate asset classification. The criteria to determine classification was set out in this decision in order for the correct licence to be granted in respect of the relevant asset. There are different delivery and ownership implications dependent on whether an asset is classified as onshore or offshore. Additionally, the application of codes and standards, as well as connection contracts, may vary depending on the classification of assets.

Under this framework, onshore transmission assets are defined as those assets constructed for the purpose of reinforcement of the existing onshore transmission network. This means assets in the HND classed as onshore transmission will run electrically parallel to the existing transmission network, as their primary function will be to transport power from onshore generating stations to another point on the transmission system. These onshore transmission reinforcement assets can transport electricity from congested regions behind boundaries onshore to other parts of the onshore system and is therefore deemed to provide wider system benefit.

User Commitment arrangements

When a User seeks connection to the transmission network, they may trigger reinforcement works. User Commitment arrangements place liabilities on Users that trigger specific reinforcement works to allow them to connect to the system, and defines the amount a User is liable for should they terminate their project or reduce their capacity

⁶ [A Holistic Network Design for Offshore Wind | ESO \(nationalgrideso.com\)](https://www.nationalgrideso.com)

⁷ [Offshore Transmission Network Review: Decision on asset classification \(ofgem.gov.uk\)](https://www.ofgem.gov.uk)

before or after their Trigger Date.⁸ This means that Users financially secure the network reinforcement and investment required to connect them. Security arrangements comprise of a generic liability to cover assets being built for the benefit of all Users (defined as Wider Works) and a liability to cover specific Users driven investment i.e. the works required to connect Users to an existing Main Interconnected Transmission System (MITS) node⁹ (defined as Attributable Works). Therefore, whether asset build is driven by a specific User or for the wider benefit of all Users is determinative of the User Commitment liabilities faced by a connecting User.

If a User terminates their project (or reduces their capacity) before the Trigger Date, they will have to pay liabilities associated with their Attributable Works (also referred to as Attributable Works Cancellation Charge). If they cancel after the Trigger Date, they will be liable to pay the Attributable Works Cancellation Charge and the Wider Cancellation Charge.¹⁰ These arrangements are pursuant of Section 15¹¹ (User Commitment Methodology) of the Connection and Use of System Code (CUSC)¹² and are reflected in the STC.

RIIO-ET2, Large Onshore Transmission Investment (LOTI) and Accelerated Strategic Transmission Investment (ASTI)

RIIO-ET2 is the second iteration of electricity transmission price control to be conducted under the RIIO (Revenue = Incentives + Innovation + Outputs) model. This applies to electricity transmission companies from 1 April 2021 to 31 March 2026 (the 'T2 Price Control Period').

The RIIO-ET2 Final Determinations decision¹³ established the Large Onshore Transmission Investment (LOTI) mechanism to assess and fund large (£100m+) onshore transmission projects during the T2 Price Control Period. In December 2022 Ofgem decided to introduce a new Accelerated Strategic Transmission Investment (ASTI) framework¹⁴ to accelerate delivery of large onshore projects to deliver the government's objective to connect up to

⁸ Defined in CUSC Section 15 - The Trigger Date will be (a) the 1 April which is three Financial Years prior to the start of the Financial Year in which the Charging Date occurs or (b) where the Charging Date is less than three Financial Years from the date of the Construction Agreement, the date of the Construction Agreement (in which case the Financial Year in which such date falls is the relevant Financial Year within the Cancellation Charge Profile working back from the Charging Date).

⁹ A MITS node is point on the network with four or more transmission lines, or two transmission lines and a Grid Supply Point (GSP).

¹⁰ A component of the Cancellation Charge that applies on and after the Trigger Date as more particularly described in Part Two of the User Commitment Methodology

¹¹ [Connection and Use of System Code \(CUSC\) | Section 15 - User Commitment Methodology](#)

¹² [The Connection and Use of System Code \(CUSC\) | \(nationalgrideso.com\)](#)

¹³ [RIIO-2 Final Determinations - Core Document \(ofgem.gov.uk\)](#)

¹⁴ [Decision on accelerating onshore electricity transmission investment \(ofgem.gov.uk\)](#)

50GW of offshore generation to the network by 2030, which came into force in August 2023.

Where the HND projects meet the criteria for onshore transmission classification, the relevant Transmission Owners (TOs) will be responsible for developing the Detailed Network Design (DND) of these projects which are likely to qualify for consideration under LOTI and ASTI.

Through the price controls framework, the Authority has approved, and may in future approve further specific infrastructure projects for a relevant TO as part of this strategic approach to reinforcement of the network. Where TOs incur costs in delivering Authority approved LOTI or ASTI projects, the operation of the price control framework means that those costs will be returned to the relevant TO.

Despite this mechanism under the price control framework, the STC currently requires connecting Users to provide securities associated with strategic reinforcement works approved by the Authority, notwithstanding that the build is not specifically triggered by the connection of the Users. This provision is also reflected in the Connection and Use of System Code (CUSC).

Construction Agreements and CUSC Section 15 require a User to provide security 45 days before the start of the Security Period. There are two 6-month Security Periods each year; starting on 1st April and 1st October, which a User then needs to securitise for.

Under Schedule 9 of the STC, the three onshore TOs are required to provide Bi-Annual Estimates to NGESO to calculate the required securities.¹⁵ Bi-Annual Estimates statements are then produced by NGESO for the Users detailing the required securities following provision of information from the TO to NGESO.

The modification proposal

Scottish and Southern Electricity Networks (the 'Proposer') raised STC Modification Proposal CM094: *Amendment to Bi-annual estimate provisions* ('the Proposal') and requested it be treated as urgent based on Ofgem's Urgency criteria.¹⁶ The request for urgency was accepted by Ofgem on 6 February 2024.¹⁷

¹⁵ Referred to as the Offshore Construction Secured Amount in the STC.

¹⁶ [Urgency Guidance \(ofgem.gov.uk\)](https://www.ofgem.gov.uk/urgency-guidance)

¹⁷ [CM094 Urgency Decision | ESO \(nationalgrideso.com\)](https://www.nationalgrideso.com/cm094-urgency-decision)

It was noted within our decision letter on urgency that there was potentially significant overlap between the Proposal and CUSC Modification Proposal CMP428: *User Commitment liabilities for Onshore Transmission circuits in the Holistic Network Design*,¹⁸ as they propose separate solutions to address a similar defect for User Commitment liabilities albeit seeking to achieve this through different methodologies. The Authority approved an amended timeline to align both proposals and confirmed the intention to take a decision on CM094 and CMP428 in tandem. We have today also published our decision on CMP428.

CM094 aims to remove the requirements for securities related to specific infrastructure projects that have received Authority approval and where the investment to reinforce the network for a relevant TO is guaranteed under the price controls framework (ASTI/LOTI); this includes assets that are required to be built regardless of the connection of a specific User and for Transmission Construction Works which are not as a result of connection of any given party.

The Proposer states that Users are providing unnecessary securities which is, in their view, creating a barrier to entry. The Proposer further states that this solution would remove this barrier, and would purportedly deliver benefits including the facilitation of Net Zero, acceleration of Users connections, and the minimisation of construction delays.

The Proposer believes the Proposal is positive against STC Applicable Objective¹⁹ (f) and neutral against the remaining STC Applicable Objectives.

Authority Send Back of CM094

On 19 April 2024, the Authority sent back²⁰ the Final Modification Report ('FMR')²¹ for CM094 and directed the STC Panel to revise and resubmit the FMR due to deficiencies identified within the legal text. Pursuant to Section B Paragraph 7.2.5.15 of the STC,²² the Authority determined that the FMR contained legal text that rendered the Authority unable to properly form an opinion on the Proposal until the deficiencies within the legal text were addressed.

¹⁸ [CMP428: User Commitment liabilities for Onshore Transmission \(reinforcement\) in the Holistic Network Design | ESO \(nationalgrideso.com\)](#)

¹⁹ The Applicable STC Objectives are set out in Standard Licence Condition B12(3) (a) to (f) of the Transmission Licence.

²⁰ [CM094 - Authority Decision \(Send Back\) | ESO \(nationalgrideso.com\)](#)

²¹ [CM094 Final Modification Report | ESO \(nationalgrideso.com\)](#)

²² [Section B - Governance v22 25 April 2023 | ESO \(nationalgrideso.com\)](#)

On 23 April 2024, STC Panel agreed an approach to resolve deficiencies within the legal text and the second FMR²³ was received on 24 April 2024 by Ofgem. Upon receipt and analysis of the second FMR, we consider that the reasons for sending back CM094 had been sufficiently addressed, and we can now form an opinion on the Proposal.

CM094 Solution

CM094 proposes to update the STC, so that where the Authority has approved the need for strategic Transmission Reinforcement Works via the price control framework, Users would no longer securitise for these specific works.

To facilitate this, the Proposal would amend Schedule 9 and Section J by introducing two new definitions to define the Authority approval for specific Transmission Construction Works ("Construction Approval") and to define the costs no longer included in the Bi-Annual Estimates ("Excludable Costs").

The Proposal would see Users continuing to provide securities until "Construction Approval" has been received by the Authority and the securities would only be released in the following Security Period. This means that the removal of securities would not be immediate and would be contingent on two timing factors; Authority assessment of an initial needs case and/or final needs case and the relevant Security Period which would ratify the removal of securities on a Bi-Annual basis upon submission of the Bi-Annual Estimates. This would mean that the amendment of securities could only occur during one of the two Security Periods that occur throughout the year.

STC Panel²⁴ recommendation

On 27 March 2024, the STC Panel ('the Panel') met to carry out their recommendation vote and voted unanimously in favour of the Proposal. The Panel voted that the Proposal better facilitates STC objective (f), with one member stating it also better facilitates STC objective (c). Voting Panel members agreed with the Proposer's assertion that removing unnecessary securities would enable more viable Users connections. One STC panel member qualified their vote, believing the full benefit of the Proposal could only be realised through the appropriate management of the associated CUSC processes.

²³ [CM094 Second Final Modification Report | ESO \(nationalgrideso.com\)](#)

²⁴ The Panel is established and constituted from time to time pursuant to and in accordance with section B6 of the STC.

Our decision

We have considered the issues raised by the Proposal and both FMRs. We have considered and taken into account the responses of the STC parties included in both FMRs. We have concluded that:

- implementation of the modification proposal will better facilitate the achievement of the applicable STC objectives; and
- directing that the modification be made would be consistent with our principal objective and statutory duties.²⁵

However, we have further considered the interactions with CMP428, and we have concluded that CM094 be rejected. This is because we consider that the proposals brought forward under CM094 and CMP428 are not compatible in practice, and their incompatibility is such that they cannot both be approved. In our view, out of the two options proposed, CMP428 delivers a better solution because it is better at facilitating our statutory duties, including protecting the interests of existing and future consumers. On that basis, we have decided to reject CM094 outlining our reasons below in more detail.

Reasons for our decision

In our decision on urgency for CM094, we considered the modification and its significant overlap with CUSC Modification CMP428. Given the interdependencies between these modifications, we believed that it would be most appropriate to consider the merits of CMP428 in parallel with CM094. In our urgency decision on CM094, we also set an amended timeline in order to align the Proposal with that of CMP428. We highlighted in that decision that we believed it most appropriate for CM094 and CMP428 to be considered in parallel. The Authority also encouraged the Panel and Workgroup to proactively engage with interested parties as soon as possible to ensure consultation is effective, notwithstanding the truncated timeline.

CMP428 and CM094 propose separate solutions which aim to address a similar defect for User Commitment Liabilities, albeit they seek to achieve this through different

²⁵ The Authority's statutory duties are wider than matters which the Panel must take into consideration and are detailed mainly in the Electricity Act 1989 as amended.

methodologies. As the solutions are distinctly different in nature, it would create a misalignment between the respective codes should both be approved.

We recognise that both CMP428 and CM094 are consistent with our previous policy intent of encouraging coordinated expansion of the offshore network. We agree that User liabilities should be apportioned in a fair manner, as asking specific Users to secure liabilities wholly for these assets would likely discourage offshore developers from connecting to these circuits and jeopardise government Net Zero targets.

In making a decision on both proposals at the same time, we have considered whether our decisions on both modifications together are consistent with our principal objective to protect the interests of consumers, and our other statutory duties.²⁶

Interaction with CMP428: User Commitment liabilities for Onshore Transmission circuits in the Holistic Network Design

The CM094 Workgroup agreed that there is a clear interaction with CMP428. Both modifications focus on the removal of security provisions where the Authority has approved works, but removal of security provisions come into effect at different points in the proposed processes.

CMP428 looks to ensure that there are no liabilities for transmission works classified as onshore reinforcement under the HND once they have been classified as such by the Authority. In comparison, CM094 seeks to remove securities after the Authority has approved a needs case for the relevant onshore reinforcement. Depending on the timeframes for the relevant TO(s) to submit needs case information to the Authority for assessment, this can take place many months or even years after classification. Upon an initial needs/final needs case assessment, the requirement to securitise would remain until the next relevant Security Period and therefore lacks the immediacy that the solution of CMP428 proposes.

Whilst we have concluded that both the Proposal and CMP428 are positive against their respective applicable code objectives and consistent with our principal objective and

²⁶ The Authority's statutory duties in this context are detailed mainly in the Electricity Act 1989 (in particular, but not limited to section 3A) as amended.

statutory duties, we have concluded that it is not possible for both modifications to be approved and implemented. This is because the solutions are different and operationally incompatible with one another. Whilst both seek to resolve a similar defect with User Commitment liabilities, they do so through different codes, two different timeframes for when the changes would be effective and the respective proposed legal texts are not consistent with one another. Considering that the legal text proposes different terminology and operational processes for the removal of securities, approving both proposals would create a situation wherein there would be conflicting legal text across two codes relating to User Commitment arrangements and securities. This is not an acceptable approach nor is it a precedent the Authority would be comfortable with.

As a result, we have considered which of the two options is preferable and have concluded CMP428 is a better solution. We believe the solution in CMP428 will more effectively mitigate the risk of cancellations, in that liabilities are excluded from Attributable Works for affected Users from the implementation date of decision. Under the proposed solution, CM094 would see Users post securities for their liabilities until such time the Authority approved a needs case, which may not fully mitigate against potential cancellations as presently affected Users would be required to post securities until the next Security Period. CMP428 therefore better facilitates our statutory duties and principal objective, including protecting the interests of existing and future consumers.

It is the view of the Authority that the two code bodies involved in these two modification Proposals could have engaged with each other more proactively in order to align the solutions of CM094 and CMP428, respectively.

The Authority encourages that, prior to raising a modification Proposal in future, relevant engagement and analysis is undertaken to understand other code modification proposals raised against a similar defect. If it is deemed necessary to raise a similar modification, we actively encourage respective Workgroups and Panels to proactively engage with each other in order to align their proposals and solutions to ensure consultation and solutions are compatible and as effective as possible.

Our assessment against STC Applicable Objectives

We consider CM094 will better facilitate STC Applicable Objectives (c) and (f) and has a neutral impact on the other STC Applicable Objectives.

Although we consider the Proposal to be positive against the STC Applicable Objectives, for the reasons set out above, we have overall decided to reject it.

(c) facilitating effective competition in the generation and supply of electricity, and (so far as consistent therewith) facilitating such competition in the distribution of electricity

The Proposer's view remained neutral on the impact of the Proposal on STC Applicable Objective (c), however, two Workgroup members and one Panel Member believed that the Proposal would better facilitate STC Applicable Objective (c). The Workgroup members and Panel Member believed that the Proposal would support effective competition and assist with the ability for Users to access the electricity system by potentially lowering the securities for projects which may have not been viable and seen as a barrier to entry under the current process. It is noted that there was one response from the Code Administrator Consultation who believed that the modification proposal was deficient against STC Applicable Objective (c), citing their opinion that it could lead to discrimination between Users on the same circuit.

Our View

We believe that the Proposal would better facilitate STC Applicable Objective (c) by promoting effective competition through the reduction of the overall financial burden for Users. Although we consider it appropriate that Users are required to provide securities against investment on the transmission network for assets which can be attributed to them, or for investment works that are solely consequential to their connection, we also acknowledge that the significant securities currently required can inhibit the viability of investment for some projects and could be reducing effective competition between Users. We note that not all Users would be asked to securitise reinforcement works as Attributable Works, which could lead to a distortion depending on the location of the Users. This Proposal would create a level playing field to ensure that only works which are attributable to the User are securitised as Attributable Works.

The Proposal identifies and removes a requirement to securitise for assets already guaranteed under the price controls framework. We expect the modification will effectively

reduce some of the financial burden for those Users impacted and improve equity within User Commitments.

However, we also consider that the potential benefits stemming from implementation of this Proposal would be delayed significantly by the link between this solution and the approval of a needs case from a relevant TO. In the intervening period, the Users would be required to place significant and potentially unwarranted securities owing to a process over which they had no control or ability to influence.

We understand that the potential delay introduced via the CM094 solution is to mitigate perceived risk to the TO. However, we have not seen sufficient evidence that prior to final needs case approval the TOs will incur significant costs in the building of the relevant infrastructure. We also do not consider that in the specific circumstances dealt with in the Proposal that it would be appropriate for a single User to be responsible for the mitigation of that perceived TO risk given the infrastructure is provided for wider benefit.

(f) facilitation of access to the national electricity transmission system for generation not yet connected to the national electricity transmission system or distribution system

The Proposer's view is that STC Applicable Objective (f) is more effectively facilitated by this modification as it is likely that an increasing number of connections would be realised by reducing the number of unnecessary securities required by Users.

Workgroup and Panel members agreed unanimously that STC Applicable Objective (f) would be better facilitated by this modification, citing agreement that securities associated with large strategic Transmission Reinforcement Works are acting as a barrier to Users, specifically in relation to the scale of securities required as a result of early termination of User contracts. There was the view from Panel members that securities for these associated works significantly impact small Users, which can make projects unviable.

Our View

We agree that this modification will better facilitate STC Applicable Objective (f). We accept that, where strategic Transmission Reinforcement Works have received approval by the Authority under the price controls framework, that it is no longer necessary that securities

are required to be provided by Users. We recognise that this could present a barrier to entry for viable User's connections, in particular when considering that Users as businesses will have differing levels of access to cash or guarantees etc.

Next Steps

The Authority recognises that, with the approval of CMP428 and the subsequent changes to the CUSC, that changes to the STC may still be required. As set out in our decision to approve CMP428, we consider that compatible consequential STC mods should be considered by NGENSO and brought forward where required.

Decision Notice

In accordance with Standard Condition B12 of the Electricity Transmission Licence, the Authority hereby directs that modification Proposal CM094 'Amendment to Bi-annual estimate provision' is not made.

Eleanor Wood

**Deputy Director for Network Charging and Wholesale Market Reform
Energy System Management and Security**

Duly authorised on behalf of the Authority