ESO

Workgroup Consultation

CMP435: Application of Gate 2 Criteria to existing contracted background

Overview: The related CMP434: "Implementing Connection Reform" Modification introduces new processes and definitions that will update the existing processes and enable new applicants with more ready projects to progress more rapidly to connection. Gate 2 is a key component of the update; however, the size and rate of growth of the connections queue means that significant action is required as soon as possible to reduce the current queue so that viable projects can be connected more quickly and so that the benefits of our proposed Connections Reform model can be delivered earlier. This Modification seeks to address this by applying a project milestone/criteria ('Gate 2') to all existing contracted parties before they are provided with confirmed connection dates and locations.

Modification process & timetable[1]

1. **Proposal Form**
   19 April 2024
2. **Workgroup Consultation**
   25 July 2024 - 06 August 2024
3. **Workgroup Report**
   20 September 2024
4. **Code Administrator Consultation**
   26 September 2024 - 10 October 2024
5. **Draft Final Modification Report**
   16 October 2024
6. **Final Modification Report**
   22 October 2024
7. **Implementation**
   01 January 2025

Have 10 minutes? Read our Executive summary

Have 120 minutes? Read the full Workgroup Consultation

Have 180 minutes? Read the full Workgroup Consultation and Annexes.

Status summary: The Workgroup are seeking your views on the work completed to date to form the final solutions to the issue raised.

This modification is expected to have a: High impact on Transmission Owners, Interconnectors, Generators (including embedded generators), Demand, Distribution Network Operators, Independent Distribution Network Operators and Electricity System Operator.

Governance route	Urgent modification to proceed under a timetable agreed by the Authority (with an Authority decision)	
Who can I talk to about the change?	**Proposer:** Alice Taylor Alice.taylor@nationalgrideso.com 07895310443	**Code Administrator Chair**: Elana Byrne Elana.byrne@nationalgrideso.com 07749 576 706
How do I respond?	Send your response proforma to cusc.team@nationalgrideso.com **by 5pm on 06 August 2024**	

[1] This represents the current proposed timeline for this modification (as of 25 July 2024), which is pending Authority approval.

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Contents

Executive summary

This code modification has been raised under the ESO's Connections Reform Programme, with proposals to reform the electricity transmission connections process (as set out in the CUSC) and address the current connections queue.

What is the issue?

The current Great Britain (GB) transmission connections process is not enabling the timely connection of projects to meet net zero. A wholesale revision is needed to the connections process to meet those targets and the needs of project developers and consumers. There is therefore a need to address the existing GB transmission connections queue in order to deliver the benefits of the proposed reformed connections process to ensure viable projects are able to connect, at both transmission and distribution, ahead of those projects (which are currently in the GB transmission connections queue) that are not progressing.

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

Proposer's solution: This proposal looks to extend the Gate 2 concept and some features of Gate 1 (outlined in CMP434) to existing in-scope (as set out in Element 3 below) connection contracts (as set out in the CUSC). This means that for existing connection contracts, project developers will need to provide evidence of their project(s) meeting the (new proposed) Gate 2 criteria by the given date[2]. If a project meets the Gate 2 criteria, then the project will retain their current connection point and connection date (as set out in their existing contractual arrangements with the ESO) and the developer will also be able to apply, if they wish, for an advanced connection date for their project. The intention is that a specific queue position for a developer will be based upon the time at which the Gate 2 criteria is met by each project in respect of the Gate 2 to Whole Queue exercise. This will however be subject to certain exceptions related to Project Designation and Connection Point and Capacity Reservation (as described in Element 9 and Element 10 below) and it is subject to the development and approval of the proposed Gate 2 Criteria Methodology and proposed Connections Network Design Methodology.

If an existing project does **not** meet the proposed Gate 2 criteria, by the given date, their existing queue position will be nullified and their existing contract with the ESO will be transitioned to a Gate 1 style contract which will include an indicative connection point and an indicative connection date – and as a result they will **not** retain their current connection point, connection date (as set out in their existing contractual arrangements with the ESO), or transmission queue position. They will also be subject to a longstop date which if not met may result in termination. If and when such projects meet the Gate 2 criteria at a later date they can apply through a Gate 2 process, as proposed within CMP434.

Implementation into CUSC date: 01 January 2025.

Note that our intention is that the approval of CMP435 (and CM096) is contingent on the approval of CMP434 and CM095 and the associated licence changes; however, we note that is ultimately a decision for the Authority.

[2] As at the time of this consultation, it is anticipated that this date will be 31 January 2025.

What is the impact if this change is made?

The impact on in-scope existing connection contracts is as above i.e., by a specified deadline project developers will need to demonstrate that they have met the (new proposed) Gate 2 criteria in order to retain their existing contracted connection point, connection date (with the potential for advancement) and queue position or, if they fail to meet the criteria by the given date[3], they will be transferred to an indicative connection point and connection date until the project meets the Gate 2 criteria (as being introduced under CMP434).

Interactions

This code modification directly interacts with a change to the STC[4], CM096.

CMP435 is contingent upon the approval and implementation of the separate modifications addressing Implementation of Connections Reform: CMP434 and CM095.

The Proposer decided to separate out the "*Application of Gate 2 Criteria to existing contracted background*" (contained in this CMP435) from the rest of the "*Implementing Connections Reform*" (contained in the CMP434) as this CMP435 proposal intends to apply the Gate 2 Criteria to the existing contracted transmission queue (including distribution connected projects in the transmission queue) and this may impact stakeholders that are not necessarily impacted by the rest of the scope of the "*Implementing Connections Reform*" CMP434 Modification.

There is also a possibility of consequential changes to the DCUSA as a result of this code modification. However, at the time of this consultation (July 2024) no such DCUSA change has been identified.

When completing your Workgroup Consultation Responses, we recommend you read the documents in the following order for full appreciation of the suite of current TMO4+ modifications (with consultation responses made to the specific modification only):

1. CMP434 Implementing Connections Reform
2. CMP435 Application of Gate 2 Criteria to existing contracted background (this document)
3. CM095 Implementing Connections Reform
4. CM096 Application of Gate 2 Criteria to existing contracted background

[3] As at the time of this consultation, it is anticipated that this date will be 31 January 2025.
[4] The System Operator - Transmission Owner Code

What is the issue?

The current connections process is not enabling the timely connection of projects to meet net zero. A wholesale revision is needed to the connections process to meet those targets and the needs of project developers and consumers. This proposal introduces new processes that will update the existing processes and enable projects that are most ready, to connect more efficiently.

In December 2022, the ESO, the Proposer of this CMP435, published a Case for Change, to conclude Phase 1 of their GB Connections Reform project, in respect of longer term reform of the connections process (i.e. the process by which projects apply to connect to or use the electricity transmission system in GB). The ESO subsequently worked with stakeholders during early 2023 to develop and explore options in relation to a longer-term reformed process for connections and the ESO set out their initial recommendations for reform in a consultation in June 2023. The ESO have continued to engage and develop their thinking based on the ~80 responses to the consultation. The ESO set out their final recommendations for longer-term connections reform on 05 December 2023, which identified policy areas that needed to be finalised before raising changes to the codes. The ESO concluded Phase 2 of their GB Connections Reform project and just prior to this, in November 2023, DESNZ/Ofgem published their joint Connections Action Plan, which stated the following in relation to Connections Reform:

> *"Desired Outcome: Connections reforms delivered with a high degree of confidence in quality, pace, ambition and coordination of reform delivery, ensuring greater and faster impact of connection reform in reducing connection times as well as lower system and/or connection costs.*
>
> *In selecting the most appropriate implementation approach for the Connections Action Plan, we were guided by a range of factors and principles. We want an implementation approach that ensures sufficient industry engagement and efficient and coordinated delivery of changes, taking into account the interests of all stakeholders, as well as wider strategic objectives related to achieving net zero goals and enabling reforms to be substantially delivered by 2025 to ensure energy security and investability across the network."*[5]

Since publication of the final recommendations and noting the asks on the ESO within the Connections Action Plan, the ESO continued to engage across industry on key policy decisions and how to incorporate these changes within the codes. As a result of this further policy development and industry engagement, the ESO published an update to final recommendations setting out what has changed since the final recommendations of December 2023 and why, and to inform code changes.

Since the ESO started its Connections Reform programme in October 2022 the transmission connections queue has grown by more than 275GW and has been growing steadily at an average of over 20GW a month for the last 12 months. This is despite the tactical actions that have been introduced as part of the ESO's 5 Point Plan and the ENA's 3 Point Plan. Those tactical actions have delivered/will deliver benefits for ~70GW of

[5] Pages 83 and 84.

projects; however, they have had limited impact on reducing the size of the current GB connection queue or slowing down the rate at which new projects are added to the queue. At the current rate of growth the total connections queue (across transmission and distribution) is likely to exceed 800GW by the end of 2024, over 4 times the installed capacity GB will need by 2050 for net zero purposes.

The queue management milestones, as introduced by CMP376, once inserted into all connection contracts, will allow for the termination of projects that are not progressing. This will then create an opportunity to bring forward ready projects or prevent on-track projects from delay. However, this will take a considerable amount of time to start delivering material benefits and will take even longer than this (given the number of parties with connection agreements and the lengthy connection dates) to start terminating projects in the middle or towards the back of the current connection queue. In the Proposer's view, the size and rate of growth of the connections queue means that significant action is required as soon as possible to better manage the current queue as well as to improve processes for new applications so that projects that are ready to progress can be connected more quickly. This will mean that the benefits of the ESO's proposed Connections Reform model can be delivered earlier as not taking action to address the current queue will mean that new applications under the ESO's proposed Connections Reform model will initially be at the back of what could be ~800GW queue, with initial connection dates into the 2040s, and with at least several years before those connection dates are improved as a consequence of Queue Management.

Scope

- Extending the Gate 2 concept (proposed to be introduced by CMP434) to apply to existing in-scope (as set out in Element 3 below) connection contracts.
- Changes to the contractual arrangements for those existing in-scope (as set out in Element 3 below) contracted parties that have not met the Gate 2 criteria.
    - For example, removing the existing confirmed connection date[6] and connection point, set out in the contract with the ESO, from any in-scope projects which have not yet met the Gate 2 criteria from the given date, and disapplying any User Commitment/Final Sums and Queue Management Milestones from those projects. A longstop date is also proposed to be introduced for such projects.
- Introducing cut over arrangements to cover the proposed process for 'clock starts' occurring after 10 Business Days from the Authority's decision on this code modification (i.e., the cutover date). It is proposed that from the cutover date any new application (or Significant Modification Application) will be processed in the relevant application window (all as proposed to be introduced by CMP434).

[6] For clarity, embedded customers that have gone through a Transmission Impact Assessment process but do not have transmission works required to connect, are in scope of this modification and will need to meet Gate 2 criteria.

Why change?

Please note that in the ESO Connections Reform Consultation (pages 73 to 78), the ESO set out the benefits in more detail, but in summary:

Overall, the connection reform proposals have three main benefits as follows:

- Quicker connections for projects that are in a better position to progress to connection.
- A more coordinated and efficient network design for connections that delivers benefits for customers and consumers, since allocating capacity more efficiently to projects that are most ready to proceed and studying connection applications in batches should lead to lower overall costs[7].
- A process which helps to efficiently deliver Net Zero by delivering timely connections dates.

Of the options the considered prior to making final recommendations, the approach has:

- The opportunity for a first-ready, first-connected connection process; and the overall opportunity for earlier/more efficient connection dates.
- More efficient and coordinated future planning of the network, with the benefits further enhanced with the proposed future introduction of the Strategic Spatial Energy Plan (SSEP) and Centralised Strategic Network Plan (CSNP). The Proposer believes the proposed solutions can be materially aligned with the plans for CSNP and SSEP and as such can deliver increased benefits for customers and consumers.
- An ability to build network assets more efficiently in anticipation of need as the early batched assessment of connection applications under the proposed approach would also allow efficient inclusion of anticipatory investment in network design.
- Better facilitation of competition, innovation and introduction of non-build solutions e.g., a coordinated design helps introduce innovation into network designs by facilitating competition in the design and delivery of infrastructure related to connections - as planning in advance should provide clear scope and time for competitive tenders.
- Future-proofed design to align with other programmes e.g., the Proposer believes the proposed solutions are future proof for the likely development and use of the SSEP, most specifically with regards the use of application windows and the introduction of strategic coordinated network designs for connections.

Specifically for this Modification:

- The GB transmission connection queue growth has accelerated significantly beyond expectations when designing the ESO's proposed connection reform changes, even considering recent reforms. As part of the ESO's 5 Point Plan and the ENA's 3 Point Plan, the electricity networks have been undertaking multiple initiatives to address the size of the queue. These actions are in line to deliver benefits by removing

[7] Note in this consultation (page 73), it notes that the Holistic Network Design process is expected to lead to overall net consumer savings of approximately £5.5 billion when compared to an optimised radial design and expect similar benefit (although difficult to quantify) for our proposed reformed connections process.

stalled projects from the queue, releasing additional transmission network capacity, and providing projects with advanced connection dates.

- However, the size of the queue has continued to rise at a much higher rate. The ESO is therefore recommending that aspects of the reformed connections process (including Gate 2 and queue position allocation at Gate 2), need to be extended to the existing contracted background in order to deliver meaningful impact. Reform needs to be implemented as quickly as possible, and this will need to be supported with accelerated code change via the urgency process.

What is the solution?

Please note that throughout this section:

- **Black text** describes each element of the proposal in the context of CMP435, noting that CMP435 (and CM096) is contingent upon CMP434 (and CM095).
- **Purple text** generally explains the key differences between the element in CMP434 and the same element in CMP435.
- **Red text** indicates that an element of CMP434 that is not applicable to CMP435.

A summary of the purple text and red text differences between CMP434 and CMP435 can be found in a table in Annex 6.

Element 1. Proposed Authority approved methodologies and ESO guidance[8]

The following element is the same as CMP434, except the references to guidance on Significant Change and Material Technology Change have been removed in respect of CMP435, as they are not applicable in the context of CMP435.

In relation to each aspect of the proposed solution the Proposer is considering the appropriate level of codification, and where appropriate proposes to use additional proposed methodologies or guidance (with proposed methodologies proposed to be approved by the Authority and guidance provided by ESO) to support the reformed process instead of, or as well as, proposed solution codification.

In this document the Proposer uses the capitalised term “Methodology” to denote such a proposed Authority-approved Methodology. There are three areas within the proposal where the Proposer intends to codify the high-level concept but then have the associated detail elsewhere in a proposed Methodology. These are:

- Gate 2 Criteria Methodology;
- Project Designation Methodology; and

[8] To help you navigate the document, the various elements of the ‘*Proposer’s solution*’ have been broken down into 20 distinct parts (number 1-20) which are then referred to, as ‘elements’, in the following ‘*Workgroup considerations*’ part of this document. The first 18 elements are the same elements in the same order as those within CMP434 (which we suggest you have read prior to this consultation). However, where elements of CMP434 are not applicable to CMP435 this has been highlighted, and differences between those elements related/relevant to both modifications have been incorporated within each of the relevant elements. The two (additional) Elements which are only applicable to CMP435 have been added to the end of the Proposer’s solution i.e., Element 19 and Element 20.

- Connections Network Design Methodology (CNDM)

All are further described below in Element 11, Element 9 and Element 16 respectively of this '*Proposer's solution'*.

The Proposer considers that having this detail outside of the CUSC in a proposed Methodology proposed to be approved by the Authority (as per a high-level process the Proposer would expect to be set out in the ESO's transmission licence, and in the case of the proposed CNDM the Transmission Owner's transmission licence) would provide a more appropriate balance of flexibility and governance when compared to the current codified CUSC Modification process. The Proposer considers that this is particularly important to ensure that the future connections process can adapt quickly and proportionately to future changes in the energy market or in major energy policy, to deliver better outcomes.

With this solution it is also intended to utilise ESO guidance to support the ESO's and industry understanding of parts of the CUSC. The ESO expects to publish the following guidance document[9] (subject to change and not necessarily required by the CUSC):

- Letter of Authority[10] Guidance and Queue Management Guidance[11] (as is currently the case, but as amended/expanded as a result of these proposals e.g., in respect of the proposed new Gate 2 Criteria contained in CMP434).

In respect of each proposed Authority approved Methodology, the Proposer foresees:

- The associated concept (which is subject to the proposed Methodology) being lightly codified i.e., a broad definition of the concept and its purpose being set out within the ESO's transmission licence (with reference to it in the CUSC, and in the case of the proposed CNDM, potentially the STC).
- A proposed licence obligation on the ESO (and regarding a proposed CNDM, TOs) to develop, consult on, publish and comply with a proposed Methodology.
- A proposed requirement for Authority approval of a proposed Methodology, and any amendments to a proposed Methodology in the future.

In respect of the consultation and approvals process for each proposed Methodology the Proposer initially foresees (based on alignment with the ESO's other licenced areas):

- A formal minimum of 28 calendar days must be allowed for an external consultation on the new/amended proposed Methodology; then

[9] Whilst not directly relevant to existing in-scope projects under CMP435, it is worth noting that guidance on Significant Modification Applications and Material Technology Changes will apply to existing in-scope connection contracts if and when such developers seek to amend their connection contracts after the go-live date for CMP434, which at this time of this consultation is anticipated to be 01 January 2025.

[10] As introduced by CMP427.

[11] As introduced by CMP376.

- A formal consultation report must be issued to the Authority within 14 calendar days of the consultation close; then
- A formal period of 28 calendar days for the Authority to review the new/amended proposed Methodology and formal consultation report and during this time the Authority must approve or reject the new/amended proposed Methodology.
- A review of the proposed Methodology must be undertaken, by the ESO, at least annually, but with the possibility of more frequent changes where the ESO believes these are required (with the process for this as above).

Unlike the current codified CUSC Modification process, we do not expect there would be any opportunity for industry to propose Alternatives or to raise their own modifications to the proposed Authority approved Methodologies.

Whilst not necessarily for inclusion in the ESO's Transmission Licence the Proposer foresees a period of informal engagement with industry stakeholders prior to the formal external consultation.

Please note that the above is subject to ongoing discussions with the Authority and it would require changes to the ESO's (and, for the proposed CNDM, TOs) Licence Conditions and/or new Licence Conditions.

If either proposed Gate 2 Criteria Methodology or the proposed CNDM were not approved by the Authority (as is proposed) by the date at which they would be required to facilitate the new connections process from go-live (currently proposed to be 01 January 2025) then the go-live date would need to be adjusted accordingly to ensure that these proposed Methodologies were available at the right time to proceed with the new process. It would be possible (albeit undesirable in the view of the Proposer) to proceed with go-live in the event that the proposed Project Designation Methodology were not approved prior to the go-live date i.e., as the process could continue without the potential for Project Designation, although there could be a sub-optimal outcome.

Element 2. Introducing an annual application window and two formal gates, which are known as Gate 1 and Gate 2 (i.e., the Primary Process)

This element is not part of the CMP435 Proposal and is only part of the CMP434 Proposal.

Element 3. Clarifying which projects go through the Gate 2 to Whole Queue Process

The following element is the same as CMP434, except the table has been updated and referenced to new applications in respect of BEGAs/BELLAs have been removed, as being specific to CMP434.

It is proposed that the following groups of customers, who, at the 'go-live' date, hold a relevant connection agreement with the ESO, will follow the Gate 2 to Whole Queue Process from the 'go-live' date:

Terminology:

Connected: Where the project (in full or in part) is Energised.
Contracted: An accepted offer for a project, but where the project is not yet Connected.
New: A new application for a project, which is independent of any Contracted or Connected project(s).

Connectee Type	CMP435

• Directly Connected Generation
• Directly Connected Interconnectors and Offshore Hybrid Assets
• Directly Connected Demand
• Large Embedded Generators
  ○ Whether a BELLA or a BEGA (via the ESO)
  ○ Whether embedded within in a DNO or an IDNO network.
• Relevant Small and Medium Embedded Generators
  ○ Via DNOs/IDNOs and included in ESO/DNO (or ESO/IDNO) contracts (e.g. Appendix G)
  ○ Includes such projects opting for a BEGA (via the ESO)
	Contracted
	and
	Connected (but only in relation to any project stages which are yet to be Energised)

'Significant' Modification Applications (in relation to the above)	N/A

Notes:

- *Embedded Demand is not in scope.*
- *The requirements do not apply to the construction of new transmission assets. For example, if a Directly Connected Generation customer triggers a new transmission substation, then the CMP435 Gate 2 criteria requirements only apply to the land related to the generation site and not, for example, to the land related to the new transmission substation, or other transmission infrastructure, including cables or overhead lines from the generation site.*
- *Directly Connected Generation includes Storage and 0MW Connections, such as Sync Comps.*
- *Any parties (if any) holding a Step One agreement issued under the temporary two-step connection offer process that was in place from 01 March 2023 to 27 November 2023 in England and Wales are included. (As a Step One offer has similar contract requirements as a Gate One offer but will be updated to a Gate 1 offer.)*

Element 4. Significant Modification Applications

This element is not part of the CMP435 Proposal and is only part of the CMP434 Proposal.

However, it is worth noting that guidance on Significant Modification Applications and Material Technology Changes will apply to existing in-scope connection contracts if and when such developers seek to amend their connection contracts after the go-live date for CMP434, which at this time of this consultation is anticipated to be 01 January 2025.

Element 5. Clarifying any Gate 2 to Whole Queue differences for customer groups

The following element is the same as CMP434, except DFTC and the requirements for an Offshore Letter of Authority equivalent at Gate 1 have been removed as not relevant to CMP435. Reference to the descoped aspects of the proposal related to The Crown Estate and Crown Estate Scotland have also been removed for the same reason.

Offshore Projects

In relation to meeting the Gate 2 criteria, for offshore projects the relevant land rights associated with Gate 2 would be provided by The Crown Estate and/or Crown Estate Scotland (as relevant) in relation to the seabed. For interconnectors and offshore hybrid assets however the relevant land rights would be in relation to the onshore convertor station and be provided by the relevant onshore landowner(s).

Additionally, due to circularity created by the above, for interconnectors and offshore hybrid assets, the Proposer is proposing that the Gate 1 offer confirms a connection date and connection point (noting that the ESO would need to temporarily reserve the economic, efficient and co-ordinated connection point at Gate 1 (and the associated capacity) for such projects, as described below in Element 10), but that this is only formally allocated to the developer subject to them meeting the Gate 2 criteria within a set period of time i.e., by the proposed longstop date as set out in Element 8.

It is also worth noting that co-ordinated offshore network design integrity may also be more generally maintained in relation to offshore projects via these Connection Point and Capacity Reservation proposals, as described below in Element 10.

Non-GB assets (i.e. generation assets which are located outside of GB/GB Waters and which are not interconnectors or OHAs) connecting to the GB transmission system will be treated in accordance with their regulatory classification i.e. if the Authority were to licence as an interconnector or OHA, the Proposer would treat the project as such and if not the Proposer would treat it akin to directly connected generation i.e., in relation to Gate 2, etc. For the avoidance of doubt, such projects will need to provide evidence to the ESO, at Gate 2, of land[12]/seabed leasing for the requisite area (as per the CMP427 Energy Density guidance document published by the ESO).

Element 6. Setting out the process and criteria in relation to Application Windows and Gate 1, including introducing an offshore Letter of Authority equivalent as a Gate 1 application window entry requirement for offshore projects

This element is not part of the CMP435 Proposal and is only part of the CMP434 Proposal.

Element 7. Fast-Track Disagreement Resolution Process

This element is no longer part of the CMP435 (or CMP434) Proposal.

It is no longer proposed to introduce a new and formal fast-track disagreement resolution process as part of this proposal, and this will be separately and informally developed by the ESO at a later date.

Element 8. Longstop Date for Gate 1 Agreements

The following element is the same as CMP434, except it has been clarified that for existing connection contracts the 3-year period commences at the point at which they become akin

[12] Ownership/lease/option as per Element 13 below.

to a Gate 1 contract (as set out in Element 19). The position for Relevant Small and Medium Embedded Generators has also been included (rather than being in Element 18).

It is proposed to have a longstop date to place a time limit between Gate 1 offer acceptance (acceptance in respect of CMP435 being the date upon which an existing connection contract becomes a Gate 1 contract, as further described in Element 19[13]) and Gate 2 offer acceptance (this being the date of customer signature).

In this approach it is intended to implement a forward-calculated longstop date of 3 years from Gate 1 offer acceptance, with the ESO having discretion to extend this timeframe, e.g., to avoid an unintended outcome where the developer has provided evidence to demonstrate sufficient progression. Whilst the specifics of when such discretion might be used is not proposed to be codified, examples of use could include where a project is within the Gate 2 application process (but is yet to receive the Gate 2 offer to accept), or where land rights have been obtained but not in sufficient volume to meet the land density table requirements to apply into a Gate 2 process. It should be noted that a 3-year time period from Gate 1 offer acceptance to Gate 2 offer acceptance will in practice mean a period of ~2 years for a developer in Gate 1 to demonstrate compliance with the Gate 2 Criteria.

In the event a Gate 2 offer has not been accepted by the longstop date within 3 years from Gate 1 offer acceptance (and there has not been an extension to the 3-year time period granted by the ESO, or relevant DNO or Transmission-connected iDNO) then the Gate 1 agreement would be terminated. This will apply to all in-scope projects as defined in Element 3.

In respect of the application of the longstop date for Relevant Embedded Medium and Small Power Stations (i.e., those not requiring or requesting a BEGA or BELLA) there will be an obligation on the DNOs and Transmission-connected iDNOs in the CUSC to introduce a new right for them to terminate in their Embedded Generation agreements if progression, in terms of the Longstop Date, is deemed to be insufficient. The Proposer's view is that this obligation will not need to go into a DNOs or Transmission-connected iDNOs connection contract with the ESO.

The DNOs and Transmission-connected iDNOs should monitor and apply the longstop date separately for their customers and as such the ESO do not require sight of the DNO or Transmission-connected iDNO customer agreements. The ESO will likely have to provide guidance to the DNOs and Transmission-connected iDNOs on how the DNOs and Transmission-connected iDNOs should apply discretion to extend the longstop date.

For the avoidance of doubt, where a Gate 1 offer is linked to a BEGA/BELLA for Embedded Small, Embedded Medium and Embedded Large generators, the ESO Gate 1 offer will include a longstop date.

[13] As any existing contracted project that fails to evidence meeting the Gate 2 criteria by 31 January 2025 (at the time of this consultation) will be deemed to have a Gate 1 offer acceptance.

Element 9. Project Designation

The following element is the same as CMP434, except it has been amended to refer to Gate 2 to Whole Queue Process as being when may be used rather than Gate 1 and/or Gate 2 and/or Capacity Reallocation Processes.

It is proposed to create a concept and an associated non-codified Methodology (proposed to be approved by the Authority) that would enable the ESO to designate specific projects in line with the proposed Project Designation Methodology.

As a result, the ESO would have the power to accelerate the queue position (and therefore connection date) of designated projects, in line with the provisions in the proposed Gate 2 Criteria Methodology and proposed CNDM. Any restrictions on which projects the ESO could designate will be defined in the proposed Project Designation Methodology and do not form part of this proposal.

Therefore, it is proposed that only the concept of Project Designation is included within the CUSC, with the proposed Methodology to be published separately and approved by the Authority (subject to the Authority making relevant changes to the ESO licence, including any expectations the Authority sets around consultation and/or periodic update, as further described in Element 1 above).

Whilst not planned by the Proposer to be included within the CUSC, the following sets out further context and the current expectations of the Proposer in respect of the proposed Project Designation Methodology.

The Proposer's current view is that the proposed Project Designation Methodology would include the ability to designate projects where they meet the following criteria:

a) are critical to Security of Supply; and/or

b) are critical to system operation; and/or

c) materially reduce system/network constraints.

It is also expected that Project Designation would only be applied where there are significant issues (e.g., material cost detriment to consumers) caused by not taking action and these could not be otherwise mitigated through the standard 'first ready, first connected' approach that is being introduced through these code modification proposals.

For Gate 2, the Proposer expects that any designated projects would still be required to meet Gate 2 criteria and go through the Gate 2 to Whole Queue process. However, it is expected that the queue position of designated projects would be prioritised (by the ESO/TOs) within the Gate 2 to Whole Queue batched assessment (i.e. they would have priority access to available capacity and/or earlier connection dates compared to other projects in that Gate 2 batch by placing them higher up the queue for network design purposes than those which do not have Project Designation).

Rather than being incorporated under Project Designation (as previously proposed)[14], the Network Services Procurement (previously referred to as Pathfinders), Competitively

[14] This is because it is not possible to identify the specific nature/location/developer of projects resulting from Network Services Procurement or CATO (or, to an extent, in relation to co-ordinated offshore network design)

Appointed Transmission Owner (CATO) and co-ordinated offshore network design arrangements will now be dealt with in a separate 'Connection Point and Capacity Reservation' process via a proposed amendment to the STC/STCP (as further described in Element 10 below).

Element 10. Connection Point and Capacity Reservation (included here for reference – proposed to not be codified within the CUSC, but is intended to be codified within the STC through modification CM095)

The following element is the same as CMP434, except it has been amended to refer to Gate 2 to Whole Queue Process as being when may be used rather than Gate 1 and/or Gate 2 Processes.

It is proposed to extend the existing STCP[15] bay reservation process currently utilised by ESO Network Services Procurement (previously referred to as Pathfinders) processes. The reason being to avoid potential situations where connection points and capacity which the ESO would otherwise require for a specific purpose (as set out below) being allocated to projects which have met the Gate 2 criteria within the Gate 2 to Whole Queue process.

This concept would be extended to cover connection points (which may not necessarily be a bay in all cases) and capacity, and to extend the potential usage to include network competition (i.e., in relation to CATOs, where strictly speaking it would actually be an interface between different parts of the transmission system rather than being for a connection to the transmission system) and also in relation to offshore co-ordination i.e., to protect the integrity of any ESO co-ordinated offshore network design[16], such as in relation to the Holistic Network Design Follow-up Exercise.

Whilst it is the ESOs intention that this will only be used in limited circumstances it will ensure that network related to the facilitation of competition or co-ordinated offshore network design in such circumstances can be protected on a time-limited basis by the ESO, prior to either being allocated on an enduring basis or released.

For the avoidance of doubt, an offshore project in respect of co-ordinated network design, or a developer in respect of Network Services Procurement, will still be required to follow the Gate 1 and Gate 2 processes being developed under CMP434, i.e. reservation of a connection point and/or capacity by the ESO does not absolve the developer of its obligation to follow the Primary Process once the outcome of a competition/lease is known.

In addition, in respect of the offshore process difference for interconnectors and OHAs described in Element 5, this process would be used to reserve a connection point and

until after the competition/leasing round has concluded. So, in order to ensure efficient outcomes for the competition and for consumers, relevant network/capacity can in some cases need to be reserved for competition/leasing round winners before the outcome of the competition/auction is known.

[15] This is a procedure set out in accordance with the SO/TO Code (STC).

[16] Due to the approach taken to co-ordinated network design for offshore projects and the significant design optionality when assessing offshore projects and their connection/interface to the transmission system (relative to onshore projects) the design process and the recommended design could be undermined in the event a reservation process was not available.

capacity for such projects for a limited time (i.e., as set out in Element 8) pending those projects achieving the Gate 2 criteria. In the Proposer's view this is required to avoid a circularity where such projects are unable to reasonably meet the Gate 2 criteria until they know their confirmed connection point (more so than any other project type due to the nature of such projects and the large number of possible connection points) and are unable to know their connection point until they have met the Gate 2 criteria.

In summary, the circumstances the Proposer foresees Connection Point and Capacity Reservation potentially occurring are as follows:

- To protect (through the Gate 2 to Whole Queue process) the integrity of any Network Competition (as and where required) associated with CATOs and the ESOs Network Services Procurement processes. For example, to reserve a connection/interface bay at two different points on the transmission system to provide to a CATO once they have been appointed via a network competition and to avoid those points (required for the 'to be appointed' CATO) being allocated to connect in-scope projects which have met the Gate 2 criteria and are seeking advancement through the Gate 2 to Whole Queue process.

- To protect (through the Gate 2 to Whole Queue Process) the integrity of more co-ordinated network design (as and where required) associated with offshore projects. This includes the aforementioned offshore process difference for Interconnectors and OHAs whereby a connection point and capacity are reserved even where they have not met the Gate 2 criteria as part of CMP435, subject to those projects accepting a Gate 2 offer (having applied once they have met the Gate 2 Criteria) by the longstop date described in Element 8. For example, the ESO co-ordinated network design processes may have indicated the preferred connection point for an interconnector and the preferred interface point for future co-ordinated offshore transmission associated with seabed to be leased to offshore wind farms. Those connection/interface points and the associated capacity will then be reserved by the ESO[17]. This will be to avoid those connection/interface points and the associated capacity (which is required for a co-ordinated connection of the interconnector and offshore wind farms) being allocated to connect in-scope projects which have met the Gate 2 criteria and are seeking advancement through the Gate 2 to Whole Queue process.

Element 11. Setting out the criteria for demonstrating Gate 2 has been achieved and setting out the obligations imposed once Gate 2 has been achieved

[17] Please note that for any Interconnector or OHA projects (or any other projects) which do not have a confirmed connection point or connection date within their existing connection contract, the CNDM and Gate 2 to Whole Queue network design process will need identify and offer a confirmed connection point and connection date i.e., such projects meeting the Gate 2 criteria by 31 January 2025 (as anticipated at the time of this consultation) would not have the option to retain their existing connection point and connection date, as they would not yet have been identified/confirmed.

- **Incorporate necessary amendments of M1 and M3 Queue Management Milestones[18]**

The following element is the same as CMP434 except that any Option agreement for existing connection agreements in scope for CMP435 only needs to meet the CMP434 minimum option length requirements from the Authority's Decision Date and projects that have met Queue Management Milestone M1 and/or progressed beyond M1 will also not need to meet the CMP434 minimum option length requirements.

As described in Element 1 above, it is proposed that whilst the concept of the Gate 2 criteria (and the relevance/interaction of the Gate 2 criteria to developers entering a Gate 2 process to be allocated a confirmed connection date and connection point) should be codified, the Gate 2 criteria themselves should not be codified and they should sit in accompanying proposed Methodology, proposed to be approved by the Authority. This is on the basis/assumption that the Authority sets out the consultation, governance and approvals process(es) in relation to the Gate 2 Criteria in the ESO licence. For the avoidance of doubt, the Proposer anticipates that the amended queue management milestones would remain codified, with a resulting need to update the ESO guidance related to Queue Management introduced by CMP376. Associated changes to align Queue Management for Distribution will be led by the ENA and sits outside of this modification.

11.1 Gate 2 Criteria

The Proposer intends that the criteria to meet Gate 2 will be:

- The developer has secured the rights to lease or own the land (or already leases or owns the land) for the site on which their project is planned to be located. Please note that a developer having an exclusivity agreement is not sufficient evidence of such land rights for the purposes of meeting Gate 2. Therefore, essentially this is the current M3 milestone amended to remove the exclusivity agreement route to meeting M3).

    - This relates to 100% of the land which is required for their project to meet the Gate 2 criteria. This 100% requirement will be calculated using the Energy Density Table as defined under CMP427 and contained in the ESO guidance document (which will need to be updated to incorporate offshore projects)[19].

    - The developer would also need to provide a red line boundary for their project site showing the land they have secured, as above. Note that this does not have to correspond to the red line boundary set out in any Letter of Authority previously submitted since the implementation of CMP427.

    - It is proposed that any Option agreement for existing connection agreements in scope for CMP435 only needs to meet the CMP434 minimum option length

[18] https://www.nationalgrideso.com/document/294156/download - see CUSC Section 16.3, which provides detail on the Queue Management Milestones.

[19] It should be noted that the Land Density Table is indicative, and developers may request ESO to consider reduced areas and/or different values for technologies that are not listed.

requirements from the Authority's Decision Date for this CMP435 modification, so any Option agreements (for existing connection agreements) already signed before this date will not need a minimum option length. Additionally, projects that have met Queue Management Milestone M1 and/or progressed beyond M1 (i.e. to M2, M4, M5, M6, M7 or M8) will also not need to meet the CMP434 minimum option length requirements.

- There will be an ongoing requirement for the developer to keep the land under option by seeking further agreements (or keeping or extending the same agreement already in place) with the landowner until the Completion Date of the project.

- Any Option Agreement is accompanied by a lease or purchase agreement, which must reflect the typical minimum operational timelines for that type of project – it is currently suggested this will be for a minimum of [20] years from the date of exercise of the option.

- Or, evidence of existing ownership, or existing land lease with a remaining term of minimum of [20] years from the submission of the Gate 2 evidence to the ESO.

Note the Proposer does not propose a Gate 2 criteria exemption under CMP435 for developers who need to obtain land via compulsory purchase order powers.

In terms of securing land, as above, there are proposed to be minor differences of approach for Offshore Wind, Offshore Hybrid Assets and Interconnectors to reflect the practicalities of how they would meet Gate 2. These are shown in the table below:

All Technologies (Except OHAs and Interconnectors)	**OHAs and Interconnectors**
Secured the rights to lease or own the land/seabed (or already leases or owns the land/seabed) of the site on which the project is planned to be located.	Secured the rights to lease or own the land (or already leases or owns the land) for the Onshore Convertor Substation.

11.2 Gate 2 – Ongoing Compliance

Once a project is within Gate 2 (i.e., once the developer has applied for/accepted and signed a Gate 2 offer):

- There will be ongoing land requirements (on the developer); and
- There will be a requirement (on the developer) to submit the project's application for planning consent at the earlier of:

  i. the Queue Management Milestone M1 ("M1") calculated back from the connection date (as per current CMP376 arrangements); or
  ii. M1 calculated forwards (based on a standard time period for each planning type) to move from acceptance of the Gate 2 offer to M1.

The Proposer proposes that the above change to the requirements for Queue Management Milestone M1 will be codified in CUSC.

The above points are further described in the sub-elements 11.3 and 11.4 below.

As at the time of this consultation, the Proposer is currently considering whether more Queue Management Milestones[20] should become forward calculated to incentivise developers to deliver, including (but not limited to) the Queue Management Milestone M2 ("M2") and also how the ESO mitigates the risk of asking a developer to submit their application for planning consent earlier than they would in their development cycle (with the risk this could expire and any planning consent extension, from the Planning Authority, is not automatic). The Proposer will take into account views on this as part of this Workgroup Consultation.

For the avoidance of doubt Relevant Small, Medium and Large Embedded Generators' Queue Management Milestones will continue to be managed by DNOs or Transmission-connected iDNOs.

11.3 Ongoing Gate 2 Compliance – Land Requirements

Although there will be an obligation for a developer to continue to show they have the appropriate land rights (as described above), measures would also be put in place to ensure developers cannot amend their project site location beyond Gate 2 such that they are actually developing a completely new site. It is therefore proposed to use the red line boundary for the project site provided at Gate 2 (the "original red line boundary") as a basis for any ongoing compliance in relation to secured land. Any amendments made, by the developer, to the red line boundary post achievement of Gate 2 will have to meet criteria which would be specified by the ESO in the proposed Gate 2 Criteria Methodology.

The Proposer's current proposal for red line boundary compliance (which is planned to be housed in the accompanying proposed Gate 2 Criteria Methodology) is that at each Queue Management Milestone the developer has sufficient acreage (calculated using the Energy Density Table as defined under CMP427 and contained in the ESO guidance document on Letter of Authority, as updated to include offshore projects) of land rights and/or consents for the full capacity (i.e. TEC or Demand equivalent MW) of all technologies in the Connection Agreement.

If this does not occur, the ESO will use the existing rights under the CUSC (introduced by CAP150, but which may need to be amended) to remove and/or reduce the capacity of one or more of those technologies for that developer's project.

In addition, where a developer builds any capacity outside of their original red line boundary (i.e., the red line boundary submitted when certifying the project has met the Gate 2 criteria), there is the potential that this will impact on their total contracted capacity, depending on how much of the capacity remains within the original red line boundary. This will be calculated by reference to the capacity planned to be (or actually) built within the

[20] Work on alignment of Queue Management Milestones with Distribution Queue Management is being done via the associated ENA Working Group and is outside of the scope of this code modification.

original red line boundary. The proposal is that for whatever capacity is built within the original red line boundary, only 50%[21] of that number can then be located outside of the original red line boundary. Where this calculation results in a number that is less than the total contracted capacity, the total contracted capacity will be reduced accordingly to a revised total contracted capacity. For example:

Example 1: 1000MW TEC

- 500MW in the original red line Boundary.
- The allowance for 50% on top of what is within the original red line boundary means that 250MW (i.e., 50% of the 500MW within the original red line boundary) will be allowed outside the original red line boundary.
- Therefore, the original 1000MW TEC applied for will be reduced to 750MW.
- The developer will need to reapply for the other 250MW at the next Gate 1 window.

Example 2: 1000MW TEC

- 667MW in the original red line boundary.
- The allowance for 50% on top of what is within the original red line boundary, means that 333MW (i.e., 50% of the 667MW within the original red line boundary) will be allowed outside of the original red line boundary.
- No TEC reduction.

Example 3: 1000MW TEC

- 700MW in the original red line boundary.
- The allowance for 50% on top of what is within the original red line boundary, means that 350MW* (i.e., 50% of the 700MW within the original red line boundary) will be allowed outside the original red line boundary.
- *However, as the total TEC is 1000MW, only 300MW (of the 350MW) will be allowed outside the original red line boundary to ensure the total TEC of 1000MW is not exceeded.[22]
- No TEC reduction.

If the overall contracted capacity needs to be reduced (e.g. as per Example 1 above) then the ESO would use the existing capacity reduction rights under the CUSC (introduced by CAP150, but which may need to be amended for this purpose) to reduce capacity to the lower value. The Proposer's current intention is not to proceed with the option of "No more than 'X%' change to the red line boundary once Gate 2 has been met" as it could allow developers to build 100% of the site outside of the original red line boundary.

11.4 Ongoing Gate 2 Compliance – Planning

The proposed Gate 2 criteria on its own should provide a good mechanism for ensuring 'readier' projects are in the connections queue. However, the Proposer considers that there should be ongoing incentives and obligations placed on developers beyond Gate 2 to

[21] Broadly consistent with the methodology currently applied by NGED (NGED allows a 50% increase in project's Red Line Boundary).

[22] The examples above use TEC to illustrate how TEC would impacted. However, this does not preclude a developer building up to their installed capacity (so long as the other aspects of these requirements are complied with), and all the final example is trying to illustrate is that if any TEC beyond your contracted TEC (1000MW) needs to be applied for via a new application.

ensure that projects are viable and continue to be developed at an efficient pace. If the submission of the application for planning (Queue Management Milestone (M1)) is forward calculated from Gate 2 offer acceptance date (as is proposed) the Proposer believes this provides an appropriate incentive for projects to progress from Gate 2 towards connection.

There will therefore be a requirement, with this proposal, for developers to submit the application for planning consent (M1) at the earliest of:

i. the Queue Management Milestone M1 ("M1") calculated back from the connection date (as per current CMP376 arrangements); or
ii. M1 calculated forwards (based on a standard time period for each planning type) to move from acceptance of the Gate 2 offer to M1.

The Proposal (with a comparison based on the views of some of the Workgroup) is set out as follows.

Planning Type	Proposal, assuming some land and planning work are done in parallel	Typical timescales based on views of some Workgroup Members
Town and Country Planning (Scotland/England/Wales)	1 Year	1.5 Years
Section 36 (England/Scotland)	1 Year	1.5 Years
Development of National Significance (Wales)	1.5 Years	2 Years
NSIP/DCO (England)	2 Years	3 Years

Note:

- No definitive timescale provided for Offshore at this stage within the proposal (industry feedback is welcomed in respect to this); and
- These are the key planning types identified by the Workgroup; and

Associated changes to align Queue Management for Distribution connecting projects will be led by the ENA and sits outside of this code modification.

Element 12. Setting out the general arrangements in relation to Gate 2

This element is not part of the CMP435 Proposal and is only part of the CMP434 Proposal.

In the context of CMP435, developers (including via the relevant DNO or Transmission-connected iDNO in the case of Relevant Embedded Small and Medium generators) will only be able to confirm they have met the Gate 2 criteria as part of the Gate 2 to Whole Queue process further described in Element 19 and Element 20. Developers who do not meet the criteria for Gate 2 criteria under the process described in CMP435 will become Gate 1 projects and will be able to submit a Gate 2 Application, once they have met the Gate 2 criteria, at a later date in accordance with the process described in CMP434.

Element 13. Gate 2 Criteria Evidence Assessment

The following element is the same as CMP434 except that within the self-declaration letter, developers can also identify if they wish to advance the current contracted connection date and if so to which connection date, if possible.

The Gate 2 criteria evidence assessment will be set out in the Gate 2 criteria methodology. The below sets out the evidence that the Proposer intends that developers will need to provide to the ESO (or, in respect of Relevant Embedded Small and Medium Generation, to the DNO or Transmission-connected iDNO). Where an Embedded Small or Medium Generator also holds a BEGA, the checks are undertaken by the DNO or Transmission-connected iDNO and not the ESO, whereas for a Large Embedded Generator, the checks are undertaken by the ESO, not the DNO or Transmission-connected iDNO.
A Self-Declaration Letter, which must be signed by a Director of the developer applying and this letter must show the following:

- The date the project achieved the Gate 2 criteria (i.e., the date they actually secured the requisite land rights).
- The red line boundary for the project site upon which the project will be located and confirmed to meet or exceed the minimum land density requirements (as per the ESO's Energy Land Density Table introduced by CMP427).
- The land status information: i.e., whether all or some of land is already owned or leased (for the operational life of the project), or whether an option agreement is in place in respect for a lease or purchase of the land.
    - If not already owned/leased, the parameters of length of option agreement in respect of lease or purchase.
    - (If applicable) the parameters of the length of the lease (and that this or any extension will cover the operational life of the project).
- A statement that to the Director's best knowledge, no-one else has any rights over the land (for the purposes of energy[23]) and that it does not overlap in relation to mutual exclusive usage.
- Statement that to the Director's best knowledge, the developer is not applying for both transmission and distribution with the same land.
- Upload (the intention is that this will be to the ESO's Connection Portal) evidence they have secured the necessary land rights in accordance with current proposed Gate 2 criteria.

The Proposer proposes a template will be created to facilitate this process, and this will be mirrored across Transmission and Distribution and there will be accompanying guidance.

Within the self-declaration letter, developers can also identify if they wish to advance the current contracted connection date and if so to which connection date, if possible. However, other changes to the contract/project are not permissible through the Gate 2 to Whole Queue process and must be separately undertaken e.g., by the developer through the Modification Application process (and noting that after the go-live date for CMP434 such change requests could be considered to be Significant Modification Applications).

[23] It may, for example, be the case that the land might be used for other, non-energy related, purposes such as agricultural (e.g., grazing sheep at a wind farm or solar installation) or leisure usage (e.g., mountain-bike tracks at a wind farm).

In terms of checks, the ESO or DNO/Transmission-connected iDNO will verify that the Director, for Limited and plc companies, is on Companies House register. If a company is not listed with Companies House, the ESO will utilise publicly available information to seek to verify that the person who signs the Self-Declaration Letter is an authorised individual. The Proposer recommends that a Covering Letter is provided, by the project, to the ESO if clarification is required regarding an organisational structure to assist the ESO in performing this verification. In addition, the ESO or DNO/Transmission-connected iDNO will check that all the statements (rather than the underlying evidence) set out in Self-Certifications meet the Gate 2 criteria.

However, there will also be sample checks (the minimum percentage size of the sample to be defined by ESO/DNO/Transmission-connected iDNO) of the evidence of secured land rights including duplication checks (such as the extent to which the red line boundary for new applications for projects, that meet Gate 2, should not overlap with the red line boundary for any other site(s) with any other project(s) that are already within the Gate 2 project pool or projects applying in the same Gate 2 window.

Where a duplicate is identified, queries will be raised by the ESO with the applicant in an attempt to understand the context of why this is the case for that project. However, if the ESO is not satisfied that the overlapping boundaries will be able to accommodate the development of the project, the applicant will be deemed to have not met Gate 2 criteria.

Element 14. Gate 2 Offer and Project Site Location Change

The following element is the same as CMP434 except it is only applicable (for CMP435 purposes i.e., as the majority of projects in scope for CMP435 have a confirmed connection point to retain if they have met the Gate 2 criteria):

- For developers (if any) who hold only a Step One agreement issued under the temporary two-step connection offer process that was in place from 1 March 2023 to 27 November 2023 in England and Wales or who otherwise hold a Construction Agreement where the location of the Connection Site is unknown or expressly indicative; or
- In the event that Transitional Arrangements[24] are put in place (separate to the scope of this modification) where developers are, for a period of time prior to go-live, provided with offers with an indicative connection point and connection date.

Noting the above, the connection point requested by such developers (i.e. those without a confirmed connection point by the deadline for evidencing that the Gate 2 criteria have been met as per Element 13, anticipated at the time of this consultation to be 31 January 2025) in the Gate 2 to Whole Queue process could be different to what is offered in the Gate 2 offer and this could cause issues for the developer in relation to project viability.

[24] The ESO advised the Workgroup in mid-July that it was seeking Authority approval for a Transitional Arrangement for new application to apply from the 07 August 2024 to the CMP434/CMP435 go-live date which, at the time of this consultation, is anticipated to be 01 January 2025.

The proposal to address this potential issue is for a 12-month time period from the acceptance (by a developer) of a Gate 2 offer whereby that developer would be able to move their project site location closer to the connection point offered/contracted at Gate 2 without affecting that projects' queue position, providing the developer can demonstrate that they meet the Gate 2 criteria at that new project site location within that 12-month time period. If not, then that project would revert to being a Gate 1 project. This option only applies where the connection point offered/contracted at Gate 2 is different from the preferred/requested one in the Gate 2 to Whole Queue process.

To trigger this option a developer would need to inform the ESO in a reasonable period of time prior to acceptance (by the developer) of the Gate 2 offer so that situation-specific clauses could be inserted into the connection offer via reissue i.e., to not apply the post-Gate 2 obligations (such as the forward-looking QM Milestones or liabilities and securities) until the Gate 2 criteria have been met at the new project site location.

If the developer achieved the Gate 2 criteria at the new project site location and then clock started a standard Modification Application within the allowed 12-month period the developer could then retain their queue position, connection point and connection date (which in some cases may need to be adjusted backwards to account for the time interval) and if not then the project would revert to a Gate 1 position and lose their queue position. Ongoing Gate 2 requirements - including compliance with the forward-facing milestone(s) - would apply in respect of the connection date within the 'new' Gate 2 offer.

As triggering this option could result in adverse consequences[25], the only developers likely to trigger it are likely to be those whose projects were materially adversely impacted by the connection point being offered at a different location to the one they preferred/requested. Therefore, the risk of creating a perverse incentive for developers to trigger such an option are expected by the Proposer to be low.

However, to mitigate against the potential for a developer to seek to avoid QM Milestones and liabilities and securities for up to 12 months before then choosing to remain at the same ('old') project site location, the triggering of this option would need to forfeit the ability of the developer to remain at the same ('old') project site location (i.e. the one which triggered the Gate 2 criteria in the first place).

Element 15. Changing the offer and acceptance timescales to align with the Primary Process timescales (e.g., a move away from three months for making licenced offers)

This element is not part of the CMP435 Proposal and is only part of the CMP434 Proposal.

Element 16. Introducing the proposed Connections Network Design Methodology (CNDM)

[25] More specifically, a later connection date than first offered when the project was provided with a Gate 2 offer (due to the time interval), additional cost and effort for the developer (to move their project to a new site location) and a risk of loss of queue position (arising from the 'old' project site), if the project does not meet the Gate 2 criteria at that new project site location within that 12-month time period.

The following element is the same as CMP434 except it has been amended to refer to the Gate 2 to Whole Queue process.

This proposal will require the development of a new proposed ESO/TO CNDM, to set out how connections network design will be undertaken in relation to the Gate 2 to Whole Queue process in the future, including capacity allocation/reallocation due to projects with existing connection contracts not meeting the Gate 2 Criteria by the deadline.

As with CMP434, the Proposer intends that this new proposed CNDM (and thus its contents) should not be codified (other than at a high-level to set out the relevance in the context of the process). This is on the basis/assumption that the Authority introduces a licence obligation for ESO/TOs to have this proposed Methodology in place, and that the Authority also set out in licence the consultation, governance and approvals process(es) in relation to such a proposed CNDM. Further information on this is set out in Element 1 above.

As a consequence of the introduction of the proposed CNDM, the Interactivity Guidance Policy would also likely need to be updated by the ESO, to reflect the fact that 'first come, first served' capacity allocation will no longer be applicable. Therefore, interactivity policy will need to be different (if even remaining applicable) to reflect the capacity allocation and reallocation approach developed/approved within the proposed CNDM.

Element 17. Introducing the concept of a Distribution Forecasted Transmission Capacity (DFTC) submission process for Distribution Network Operators (DNOs) and Transmission-connected Independent Distribution Network Operators (iDNOs) to forecast capacity on an anticipatory basis for Relevant Embedded Small Power Stations or Relevant Embedded Medium Power Stations[26] aligned to the Gate 1 Application Window

This element is not part of the CMP435 Proposal and is only part of the CMP434 Proposal.

Element 18. Set out the process for how DNOs and Transmission-connected iDNOs notify the ESO of Relevant Embedded Small Power Stations or Relevant Embedded Medium Power Stations which meet Gate 2 criteria

This element is not part of the CMP435 Proposal and is only part of the CMP434 Proposal.

Please note that aspects of these CMP435 proposals related to Relevant Embedded Small Power Stations and Relevant Embedded Medium Power Stations which do (and do not) meet the Gate 2 criteria are set out across the relevant Elements within this consultation.

[26] Any distribution connecting projects which are above the upper threshold of the range for use of DFTC (i.e. projects which are 100MW and above in England and Wales, 30MW and above in Southern Scotland and 10MW and above in Northern Scotland) will need to submit a connection application direct to the ESO. It is expected that this will be via the primary process (i.e., either a Gate 1 or Gate 2 application window). For the avoidance of doubt, Embedded Large Power Stations are not in scope of DFTC (whether they are Bilateral Embedded Generator Agreements (BEGA) or Bilateral Embedded Licence Exemptible Large Power Station Agreements (BELLAs)).

Element 19. Contractual changes

This element is only part of the CMP435 Proposal and is not part of the CMP434 Proposal.

The Gate 2 to Whole Queue process will lead to all existing contracted projects (for completeness please refer to the table in Element 3) having their connection agreements with the ESO converted to either a Gate 1 or a Gate 2 agreement. For Relevant Small and Medium Embedded Generators, this will be via their DNO or Transmission-connected iDNO agreements. How this is to be done will be different for different customer groups.

There will be (as a result of this CMP435 modification) a natural 'allocation' of all existing contracted projects having their connection agreements with the ESO into one of four groups as follows.

The first group are those projects (including those with a BEGA or BELLA with the ESO) with an existing signed connection agreement, that have not met the Gate 2 criteria by the deadline, which is currently anticipated, at the time of this consultation, to be 31 January 2025. These projects will be notified by the ESO that they have not met Gate 2, and as such it is proposed that changes to their existing connection agreement (apart from DNO/iDNO agreements in respect of Relevant Small and Medium Embedded Generation) will be made via the implementation of the code modification itself; i.e., through legal text introduced into the CUSC to amend such agreements rather than, for example, the 'Agreement to Vary' process. This will mean that projects in this group will end up with a Gate 1 form of agreement (with an indicative connection point and connection date except in the case of interconnectors and OHA who will retain the connection point and date as per their current agreement using the process set out in Element 10[27]), including the generic longstop date (Element 8 starting from the ESO notification), and all of their existing contractual rights (such as their current confirmed connection point and connection date) and obligations under the agreement will fall away including the requirement to submit securities. DNO or Transmission-connected iDNO agreements which are associated with developers, and where those developers do not meet Gate 2, will also be changed.

The second group are those that have an existing connection agreement (including those with a BEGA or BELLA with the ESO) that meet the Gate 2 criteria, by the deadline (which is currently anticipated, at the time of this consultation, to be 31 January 2025), but do not want any connection date advancement for their project. They will submit the Self-Declaration Letter to the relevant party showing that the project has met the Gate 2 criteria (as per Element 13). The project's current connection agreement will continue as is (including the confirmed connection point and connection date) until the ESO updates it to add in ongoing Gate 2 compliance requirements related to their existing contracted connection date, such as the forward-facing Queue Management milestone(s), via an Agreement to Vary. If they do not sign their Gate 2 offer, they will then revert back to their Gate 1 offer and will remain there until they sign a Gate 2 offer, or longstop conditions are applied as per Element 8. For those projects with a BEGA or BELLA they will need to continue to comply with Distribution Queue Management Milestones. For DNOs and

[27] With the exception of interconnectors and OHAs, where this will be reserved by the ESO subject to those projects meeting the Gate 2 criteria by the longstop date, as set out in Elements 5, 8 and 10.

Transmission-connected iDNOs, they will receive an updated agreement in respect of their contracted Embedded Generation, and the applicable generators will also continue to have to comply with Distribution Queue Management Milestones.

The third group is similar to the second group above, but these are for projects that are also requesting a connection date advancement (treated as a modification application) when they submit, to the relevant party, their Self-Declaration Letter (as per Element 13) by the deadline (which is currently anticipated, at the time of this consultation, to be 31 January 2025).

For projects in this third group, as with the second group above, their current connection agreement will continue as is until:

> (a) They sign an updated connection agreement, but the update will in this case be by Modification Offer (providing for advancement as well as the required Gate 2 updates as per the second group), or
> (b) The ESO updates it (where a Modification Offer is not issued because an advanced connection date is not possible or the Modification Offer is not accepted) to add in ongoing Gate 2 compliance requirements related to their existing contracted connection date, such as the forward-facing Queue Management milestone(s), via an Agreement to Vary in similar manner to the second group.

As with the second group, if they do not sign the Agreement to Vary, they will revert back to a Gate 1 offer and will remain there until they do sign a Gate 2 offer, or longstop conditions are applied as per Element 8. For those projects with a BEGA or BELLA they will need to continue to comply with Distribution Queue Management Milestones. For DNOs and Transmission-connected iDNOs, they will receive an updated agreement in respect of Relevant Small and Medium Embedded Generation, who also continue to have to comply with Distribution Queue Management Milestones.

The fourth group are projects with a Transitional[28] offer/agreement, subject to relevant approval/derogation, that meet Gate 2 and will be treated by the ESO in a similar manner to the third group. However, this is without the ability to request advancement, as they would not have a fully studied agreement by the proposed self-declaration deadline (which is currently anticipated to be 31 January 2025 as at the time of Workgroup Consultation). There will be a requirement to submit a Modification Application (and a subsequent fee) as this will be the first time that the project will have been fully studied and a full suite of Appendices provided. Therefore, if and when those projects meet the Gate 2 criteria and submit their Self-Declaration Letter by the deadline (which is currently anticipated, at the time of this consultation, to be 31 January 2025) they will be provided with a Modification Offer providing a connection point and connection date, following the Gate 2 to Whole Queue network design exercise under the proposed CNDM. The Transitional Agreement would continue as is until that point in time.

[28] The ESO advised the Workgroup in mid-July that was seeking Authority approval for a Transitional Arrangement for new applications to apply from the 07 August 2024 to the CMP434/CMP435 go-live date which, at the time of this consultation, is anticipated to be 01 January 2025.

As a result of the process being proposed in this consultation, a specific opportunity for advancement is provided to projects in the second group, and a specific process is provided to offer a connection date and connection point to projects in the fourth group. Any requests to advance connection dates, at a later date (i.e., after 31 January 2025 at the time of this consultation) outside of the process proposed in this consultation, will only be available to such parties through separate processes e.g., through the Modification Application process and proposed CNDM (including capacity reallocation).

For further clarity please see the chart in Annex 4, showing the proposed indicative timeline to be followed (after the proposed decision date) to carry out the processes outlined above.

Element 20. Cut Over Arrangements

This element is only part of the CMP435 Proposal and is not part of the CMP434 Proposal.

In order for the ESO and TO's to migrate into the new process (introduced by CMP435) a cutover period is required as it would not be possible to have the current process and the proposed new process running in parallel over the go-live period and cutover arrangements are therefore proposed to mitigate the potential risks/issues.

The intention is that a cut over period will be introduced to ensure that all projects are in a clear contracted position before the start of the Gate 2 to Whole Queue process/network design activities (and/or the revised primary process under CMP434). The cut over period will start 10 Business Days after the Authority's decision to approve CMP434, CMP435, CM095 and CM096. The cut over process will apply to all inflight Offers including Transitional, Modification Applications and Project Progressions. The ESO has sent the Authority a phase one transitional letter (which is not in the scope of this Workgroup Consultation) requesting a derogation to process and study any new applications, for new projects that apply for a Transmission connection. The requested start date for this derogation is the 07 August 2024 for any offers that clock start, which is the day after this consultation closes.

There will be a second letter (phase two) that will cover the cut over period sent to the Authority explaining the areas of the Code and Licence that the ESO and TOs need a derogation from in respect of those transitional arrangements. Modification Applications, Project Progression, BEGAs and BELLA's will form part of this second derogation request.

During the cut over period customers will be able to submit applications to the ESO or DNO but they will not be processed until the start of the new process under CMP434. This is to allow all live offers to be sent out and signed before the start of the batched assessment process(es) so that the ESO and the TO's know which projects make up the contracted background. Agreements will be sent out which is currently anticipated, at the time of this consultation to continue until the 31 December 2024 with all offers needing to be in a signed position by the 31 January 2025 (dates used at the time of this consultation). These timescales are aligned with those set out in Element 19 in respect of the deadline (at the time of this consultation) associated with the self-declaration of the Gate 2 criteria for those in-scope projects with existing connection agreements (as per Element 3).

Workgroup considerations

The Workgroup convened 13 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 Code Objectives.

Consideration of the Proposer's solution

The Authority began with a reminder in an open letter published in April of their keenness for flexibility and to be presented with full optionality when it comes to decision making and not to leave any stone unturned. If Workgroups are exploring varying degrees of codification and if it's considered appropriate, consideration should be given to raising an alternative code modification proposal.

As the CMP434 solution creates the basis for several elements of the CMP435 solution, the Workgroup did discuss elements of CMP434 for context, although these are out of scope of the CMP435 solution.

This consultation focusses on the CMP435 solution and the discussions directly relevant to that.

To review the CMP434 solution and provide a consultation response to that, please access those documents here.

Element 1. Proposed Authority approved methodologies and ESO guidance

The Proposer presented their views to the Workgroup on how they foresaw the development and approval of the three proposed new Authority approved Methodologies working in the future (subject to any changes to the ESO's Transmission Licence) namely (i) the Connections Network Design Methodology, (ii) the Gate 2 Criteria Methodology and (iii) the Project Designation Methodology (see Element 1 above in the proposed solution).

The Proposer presented their intention to amend (in the context of CMP435) the existing ESO guidance in relation to Queue Management.

Workgroup members expressed their concerns in relation to these three proposed Methodologies and suggested that codification, of these documents, is a more appropriate route. One Workgroup member queried if the ESO guidance would impose any further obligations on Users, over and above what is set out in the CUSC or was the guidance just to provide further information for the understanding of the Users and the ESO. The Proposer noted that they did not plan to set out comprehensive lists of new obligations (arising from the needs of CMP435) in the CUSC. The Proposer clarified that the guidance documents will not contain any new obligations which Users can be penalised for if they do not comply with and that there would be industry engagement on these guidance documents.

Element 2 – not part of the CMP435 solution

Element 3. Clarifying which projects go through the Gate 2 to Whole Queue Process

The Proposer clarified which existing projects' contracts (with the ESO) are within the scope of this modification (and therefore would be required to need to meet the Gate 2 criteria by (at the time of this consultation) 31 January 2025 if they wished to retain their currently contracted connection date and connection point. There was further Workgroup discussion which allowed the Proposer to further clarify their position and a summary of all the existing transmission connecting projects that are in scope can be found in the Proposer's solution in Element 3. Workgroup members queried the situation for contracts which had been referred to Ofgem for Determination or were in the formal dispute process.

The Workgroup queried what would happen to those projects that have made an application by the go-live date but not received an offer, and those projects that have received an offer but not signed it prior to the go-live date. The Proposer advised that CMP435 would cover customers that have contracted with the ESO by 31January 2025 (as at the time of this consultation), noting that all other connecting projects would fall into CMP434.

The Proposer advised that for Transmission-connected iDNO or DNO construction agreements for a new GSP, the land and planning status of the new substation sits within TO's responsibilities, and those types of projects would therefore be out of scope of this CMP435 modification.

The Workgroup discussed how Directly Connected Generation, Directly Connected Demand, interconnectors and Offshore Hybrid Assets, Large Embedded Power Stations and Relevant Small and Medium Power Stations are proposed to be within the scope of CMP435. It was also confirmed that the proposed solution is to change the existing frameworks agreements (for existing projects that are within the scope of CMP435) retrospectively, including Appendix G[29] (meaning those distribution connecting projects would also need to provide evidence, to the DNO/Transmission-connected iDNO, of meeting Gate 2).

A Workgroup member suggested documentation be prepared containing possible scenarios to help developers establish whether they fall under the scope of CMP434 or CMP435, which the Proposer supported.

Exemptions

Initial Workgroup discussions focussed on the distinction between exemptions and inclusions and sought clarity where 'Relevant Small and Medium Embedded Generation' was noted as 'in scope' for what 'relevant' would be defined as (which the ENA's Strategic Connections Group is exploring the thresholds for).

A Workgroup member suggested consideration of large data centres as embedded demand projects were not seen as in scope for CMP435. The Proposer confirmed that Transmission-connected demand, including data centres, was within the scope of CMP435.

Another suggestion was made to be explicitly clear if a relevant embedded generator is exempt if it has gone through Statement of Works and is Part 1 or Part 2 of Appendix G. The Proposer agreed to make this clearer and did so in the table within Element 3.

[29] Appendix G could be part of DNOs and Transmission connected iDNOs' Bilateral Connection Agreement for capability of their connection sites, available GSP capacity and increased view of Embedded Generation levels.

A concern was raised to exclude projects in Part 1 and 2 of Appendix G as they could be blocking projects below them in the queue that are more developed. It would not make sense for a project that was being blocked for distribution works to be further ahead in the transmission queue. The Proposer confirmed that projects included in Appendix G which are contracted but not yet connected (including in relation to capacity increases) are within the CMP435 solution (as included within the updated table in Element 3).

A Workgroup member raised concerns about use of the Construction Agreement as the basis for exemptions as works may be ready early and TOs would have issues if those completed works were not included in the Construction Agreement. The Proposer noted this point and this feedback later informed the updated scope table in Element 3.

The CMP435 Workgroup were also asked if they believed there should be any justifiable exceptions for any groups of customers from the CMP435 arrangements. On this topic, a Workgroup Member argued that Interconnectors that have agreed a 'Cap and Floor' arrangement with Ofgem should not have their existing agreement turned into a pre-Gate 2 Offer (even if they won't have met Gate 2 criteria as the 'Cap and Floor' arrangement is dependent on a firm location). However, the Proposer has not included this exception in their proposal.

Workgroup consultation question: Do you believe any groups of projects should be exempt from the scope of CMP435 or from some elements of the proposed solution? If so, please advise on which groups and elements and provide rationale to why.

Workgroup consultation question: Do you believe that the proposed solution could duly or unduly discriminate against any particular types of projects? If so, do you believe this is justified?

Element 4 - not part of the CMP435 solution

The Proposer stated its view that Element 4 (Significant Modification Application) was not part of the scope of CMP435 original proposal.

Some Workgroup Members stated their view that Element 4 should be in scope of the CMP435 solution (and this may occur via an Alternative Request in due course), as it would apply to developers seeking to make changes to their existing offer when entering the Gate 2 to Whole Queue process. The Proposer confirmed that developers would not be able to change their existing offer as part of this process. but some Workgroup Members suggested it would be reasonable and a more efficient process for a developer to be allowed to seek a reduction on their capacity at this point (e.g., they didn't have sufficient land acreage for their Transmission Entry Capacity and were content to give back this Transmission Entry Capacity).

In addition, Workgroup Members stated their view that there may need to be CMP435-specific arrangements in relation to Significant Modification Applications, for example what location changes would be allowed for existing projects when entering the Gate 2 to Whole Queue process.

Element 5. Clarifying any Gate 2 to Whole Queue differences for customer groups

Offshore in relation to Capacity Reservation

Workgroup members raised concerns regarding the possibility of potential discrimination from the proposed differential treatment of Offshore and Interconnector projects who do not meet Gate 2 if such options were not offered for onshore projects (i.e. capacity reserved for Offshore or Interconnector projects that have not met Gate 2 criteria if there is a detrimental effect on the network design/design recommendation pending a seabed leasing round outcome, or capacity and queue position held for Interconnectors until their longstop date). The Proposer responded that, in these instances, they are not trying to penalise projects that are progressing.

Workgroup members asked for the Proposer to provide examples of projects that would meet the requirements for Connection Point and Capacity Reservation.

A Workgroup member asked where the request for such offshore capacity reservation had originated, and for consideration to be made in the proposal of removing offshore projects that haven't met Gate 2, but have reinforcements due shortly after, which they felt was counterproductive to the purpose of the modification. The Proposer was keen to hear Workgroup and industry suggestions for how to protect network design in the context of implementing the modification.

Several Workgroup members stated that they did not believe this element of the modification was necessary, with some stating that Connection Point and Capacity Reservation goes against the spirit of the modification. The Proposer disagreed with these views.

Noting the recent *Request for Information* that the ESO had issued to stakeholders (which closed a month or so prior to this consultation being published) a Workgroup member asked for a breakdown of the 700 GW of applications in the existing connection queue, with respect to what percentages are expected to meet Gate 1 and Gate 2. The results of the RFI are expected to be published prior to this Workgroup Consultation closing.

Element 6 - not part of the CMP435 solution

Element 7 - not part of the CMP435 solution

Element 8. Longstop Date for Gate 1 Agreements

The Proposer advised that a longstop date will be incorporated into their proposal to replace their initial thinking of introducing (as part of CMP434 and thence CMP435) the concept of the Gate 1 capacity holding security. The longstop date is proposed to place a time limit between Gate 1 offer acceptance signing by the developer (which in the context of CMP435 would be the date upon which an existing connection agreement becomes a

Gate 1 contract) and the signing, by the developer, of the Gate 2 offer acceptance for the project, with a forward calculated date of three years, with the ability for the ESO to have the discretion to extend this time period. The Proposer clarified that the longstop date is being introduced to discourage existing (with CMP435) or new (with CMP434) projects from spending a long time in Gate 1, which has an impact on the anticipatory network planning undertaken by the TOs.

For CMP435, the longstop date would commence from the point at which the existing contract becomes akin to a Gate 1 contract and is therefore deemed to have been accepted by the developer for their project.

Several Workgroup members queried why the three years would apply from when a project becomes akin to a Gate 1 contract, noting that some existing contracted projects may have already spent significant amounts of time in the connection queue. The Proposer noted that it may be unfair to backdate it for existing projects and invited the Workgroup to suggest other ideas if they disagreed. One Workgroup member queried whether developers would resubmit their applications if they are removed from the connection queue after three years, noting that this could happen often if there is no financial disincentive.

Workgroup members noted that there could be a risk of legal challenge where the new arrangements could lead to termination of a developer's connection agreement. One member suggested consideration of using either the existing contractual Backstop Date which is in all Construction Agreements, or the recently introduced Queue Management Milestone M3, as the basis of termination rather than a new arbitrary duration

Element 9. Project Designation

The Proposer outlined that the project designation approach, to be introduced via CMP434, but also utilised (via CMP435) for existing contracted projects, will prioritise connections for viable projects that:

a) are critical to Security of Supply; and/or
b) are critical to system operation; and/or
c) materially reduce system/network constraints.

It was explained that the intended project designation approach will set out the criteria and Methodology (which, at the time of this consultation, is still in development) to progress through Gate 2 with an enhanced queue position or capacity allocation. It was clarified, early on to the Workgroup that DESNZ declined to be the party exercising this designation power and, as a result, the Proposer intended that the ESO will be the party that exercises the Project Designation powers.

Several Workgroup members raised concerns around the Proposer having these powers to prioritise certain projects for connection over other projects. The Proposer clarified that the Methodology for determining whether a project met the standard(s) for being designation under (b) and (c) above would likely be locational, and that for (c) above relevant examples would be large Demand projects or long duration storage located in a

beneficial location in terms of materially reducing system or network constraints created by large volumes of generation.

One Workgroup member shared concerns that the rights of project designation should not be used broadly as it could prevent other legitimate projects in the queue from being brought forward in a timely manner due to not meeting one (or more) of the project designation criteria. Another Workgroup member highlighted the need for a dispute process in relation to project designation whereby a developer's whose project was adversely affected by another project being designated could 'challenge' that designation to the Authority.

A Workgroup member flagged the need to consider the 'materially reduced system and network constraints' criteria and the possible interactions this could have with the Balancing Mechanism and prices.

In response to Workgroup questions, the Proposer stated that it was not the intention that project designation would make any offers, for any project (designated or not) worse. It was clarified that the Proposer did not foresee that list of designated projects to be fixed and that if circumstances warranted changes to the list could occur in the future.

The Workgroup expressed that they would want to see the list of designated projects published, with a Workgroup member suggesting that a rationale for rejected projects should also be publicly available. The Proposer confirmed that the list of designated projects could potentially be published as part of the CMP435 original solution. The Proposer confirmed that the rationale for rejected projects designated could potentially be published as part of the CMP435 original solution.

The Proposer explained that the high-level concept of the project designation is proposed to be codified but with Methodology to outline a governance process for approvals.

Element 10. Connection Point and Capacity Reservation - not part of the CMP435 solution

Workgroup discussion for this element can be found in the Workgroup Consultation document for CM096.

Element 11. Setting out the criteria for demonstrating Gate 2 has been achieved and setting out the obligations imposed once Gate 2 has been achieved

- **Incorporate necessary amendments of M1 and M3 Queue Management Milestones**

The proposed Gate 2 criteria are set out in CMP434 but were also presented to the CMP435 Workgroup to assess if there should be any differences for CMP435. The overall discussions are set out in CMP434 but the following sections set out the specific discussions on CMP435.

11.1 Gate 2 Criteria, 11.2 Gate 2 – Ongoing Compliance

The only proposed difference for CMP435 is that it is not proposed to retrospectively apply the proposed 3-year minimum option requirements to those who have achieved a land option. Please note, there will still be an ongoing requirement for the developer of any currently contracted project(s) to keep the land under option by seeking further agreements with the landowner until the Completion Date for the project.

The Workgroup discussed the choices explored by the Proposer for when existing projects that are within scope for CMP435(/CM096) need to have a minimum length land option dated from. These choices varied from the land option being needed from the point the CMP435 modification was raised (i.e., 19th April 2024), to the proposed implementation date for CMP435 (anticipated to be. 01 January 2025 as at the time of this consultation), to when Gate 2 offers were accepted (currently anticipated to be late 2025/early 2026) or to have no minimum length of land option.

The Workgroup were invited to discuss the merits/objections of each of these choices. A request was made by a Workgroup member for the Proposer to outline the value of including a minimum land option length in relation to helping the connection queue progress, supporting the TOs doing anticipatory investment and preventing the process being gamed. Some Workgroup members expressed the view that the point of an Authority decision on CMP435 (proposed to be December 2024 at the time of consultation, pending Authority approval) or later would be more appropriate on a legal basis. One member suggested that where land options were entered into prior to the decision/implementation date, the ESO could be allowed discretion to decide.

Views were raised in favour of a minimum land option period to meet the objectives of the modification (in the absence of planning requirements) but also that land options take time/effort/cost so would not be taken out lightly by a developer (i.e., low expectations of poor-quality options), having options longer than necessary was inefficient and that as long as land options are checked there's no need for a minimum duration.

A suggestion was made to consider if it would be acceptable if a developer can evidence an original land option (from pre-19 April 2024, when the Connections Reform related modifications were first proposed) along with subsequent longer-length negotiated options. It was suggested that different types of projects were grouped and a mapping exercise performed for which solutions best suited each group.

Some Workgroup members asked that for projects that are due to connect imminently; e.g. within 6 months; why a 3-year land option would be required as this would not be needed. The Proposer confirmed that in these cases, it would be acceptable to provide a land option for the time up to the Completion Date. However, the Proposer believes this is not a realistic scenario when coupled with the proposal that no minimum option is required for those projects at M1 or beyond.

Another Workgroup member noted that enough risk was required to avoid speculation.

One Workgroup member advised that not retrospectively applying a minimum option period for land could cause issues due to the potential for parties to sign short land option agreements to temporarily meet the criteria. Another Workgroup member commented that

if the project misses Gate 2 at the end of this calendar year, it shouldn't have (with CMP435) any further pre-existing rights and it should be considered as a new application (as per CMP434).

Following this discussion, the Proposer's intended solution is that land options for existing agreements under the scope of CMP435 only need to meet CMP434 requirements from the Authority Decision Date[30], so options for land already agreed before this date will not need a minimum option length. The intention is that this will be housed in the Gate 2 Criteria Methodology

A table of all potential options under consideration which were posed to the Workgroup is included for reference (including the views of the Proposer):

Possible Options	Proposer Thoughts Discussed in the Workgroup
Options for existing agreements under the scope of CMP435 need to meet CMP434 requirements from date CMP435 was raised – *note that land options already agreed before this date will not need a minimum option length*	Difficult to make a coherent case for asking someone to re-negotiate an option for land with a minimum length when such minimum length wasn't known or more than a consideration for the proposed solution **- not taking forward**
Options for existing agreements under the scope of CMP435 need to meet CMP434 requirements from date this CMP435 Workgroup Consultation was published– *note that options already agreed before this date will not need a minimum option length*	Although it may be unclear until this time exactly what land option minimum length is approved (if any), it is arguably clear from now at least to the Workgroup that what is being proposed is a 3-year minimum land option length. Although there is an argument that developers should be working to that requirement from this date and this provides developers with the maximum time to meet this requirement, this may be the first time the wider industry are aware **– not taking forward**
Options for existing agreements under the scope of CMP435 need to meet CMP434 requirements from date the CMP435 Workgroup Report is published[31] – *note that options already agreed before this date will not need a minimum option length*	Although it may be unclear until this time exactly what land option minimum length is approved (if any), it has arguably been clear for 6-8 weeks to the industry that what is being proposed is a 3-year minimum land option length. However, the Proposer recognised there could different solutions proposed **- not taking forward**

[30] Which at time of consultation is proposed to be 13 December 2024, pending Authority approval.

[31] At the time of this consultation, this is currently anticipated to be 20 September 2024, based the current proposed timeline for this modification (as of 25 July 2024), which is pending Authority approval.

Options for existing agreements under the scope of CMP435 need to meet CMP434 requirements from the Authority Decision Date – *note that options already agreed before this date will not need a minimum option length*	It will be clear at this stage what land option minimum length is required and by this time it would have been clear what the minimum land option length could be so arguably developers should be working to this. This provides the balance between a developer reasonably knowing the requirements to having a minimum land option length vs avoid creating an incentive (if later than the Authority Decision Date) for developers to negotiate short period options to avoid having to meet the land option minimum length **- taken forward - preferred solution that Proposer intends to include in the Gate 2 Criteria Methodology**
Options for existing agreements under the scope of CMP435 need to meet CMP434 requirements from the Implementation Date[32] – *note that options already agreed before this date will not need a minimum option length*	It will be clear at this stage what land option minimum length is required but creates a rush between the Authority Decision Date and the Implementation Date for developers to negotiate short period options to avoid having to meet the land option minimum length - **not taking forward**
Time period from acceptance of Gate 2 Offer to "upgrading" Option to meet 3-year Minimum Period	There was talk at Workgroup of a 12 or 18 month rectification period and the Proposer can see merit in bringing CMP435 related projects into line with the CMP434 requirements. However, wouldn't propose to apply this to a project which has progressed to Milestone M1 or beyond. However, the Proposer does not think this is necessary and it would be difficult to establish what a suitable rectification period is - **not taking forward**
No minimum length	Ongoing land compliance requirements could suffice and requirement for a developer to keep the land under option by seeking further agreements with the landowner until the Completion Date. Therefore, there is merit in considering no need for a minimum land option length, but the concern is that Gate 2 is not sufficiently robust as evidence of project viability **- not taking forward**

The Workgroup discussed the CMP435 solution not including a Gate 2 criteria exemption for developers who need to obtain land via compulsory purchase order powers. The

[32] Which is currently anticipated, at the time of this consultation, to be 01 January 2025.

Proposer is open to considering options if raised via the Workgroup Consultation responses.

11.3 Ongoing Gate 2 Compliance – Land Requirements

The Proposer's solution for red line boundary compliance checks for projects; including allowing a percentage that can be built outside the boundary; are set out in CMP434. The Proposer asked the CMP435 Workgroup if the percentage being suggested for CMP434 should be different for CMP435. The discussion for CMP435 echoed the discussions at CMP434 on the need for red line boundary compliance by existing contracted projects and understanding of the calculation, referring to debates as to whether there would be a risk of gaming (if applicants can build outside an original boundary) and the alignment of boundary change rules with ENA and DNO parties (please also refer to CMP434 Workgroup Considerations).
As a result of the CMP435 deliberations no differences are proposed in the solution between CMP434 and CMP435 for how this is treated .

11.4 Ongoing Gate 2 Compliance – Planning

At CMP434, the Proposer requested feedback from the Workgroup on how long they would typically need from the project meeting the Gate 2 offer acceptance date to the project submitting, to the relevant Planning Authority, their application for planning consent, factoring in planning type and technology. The Proposer presented this to CMP435 Workgroup and specifically asked whether this should differ for CMP435.

One Workgroup Member commented that the relevant timescales for existing contracted projects (that fall within the scope of CMP435) should be shorter than that proposed for CMP434 as a developer has a contracted position with a known connection date and location and therefore should already be progressing their planning consenting work towards that. However, some Workgroup Members argued that in light of CMP376, that projects are already progressing to milestones that have only recently been agreed as part of CMP376 (Queue Management) and therefore these projects should not be now required (with CMP435) to submit their application for planning earlier than they would be required to under their existing contractual arrangements.

On M1 being forward-looking, the CMP435 Workgroup reiterated the concern raised at CMP434, as to whether it is reasonable to ask a developer to submit their project application for planning consent earlier than they would in their natural development cycle, noting the risk that any planning consent that was issued (based on an earlier than normal application) could expire and any extension (of that planning consent) from the Planning Authority is not automatic. Possible ways to mitigate this have been proposed in CMP434 and these equally apply to CMP435. These are set out for completeness below:

a. Forward-Looking M1 Milestone takes into account expected decision timelines and validity of such planning consent with the idea that planning does not expire before planning conditions are discharged.
b. Consider using the 10% developer spend route that the Low Carbon Contracts Company use for CfD Contracts.
c. Forward-Looking M1 Milestone time period only starts from when the TO have confirmed the location of their substation, where this is reasonably required for the developer to prepare and submit their planning application. Note this only

applies in England and Wales as in Scotland, typically, the Transmission Owner consents the cable route.
d. The M1 Milestone remains backwards looking from the Completion Date if a project's Completion Date is more than X years away.
e. Include a rectification period for a developer to resubmit their application for planning (M1) if the permission expires before the Completion Date.

Some Workgroup members also expressed concerns that a connection point could still be a node, so a developer's ability to comply with forward-facing milestones is impacted as the developer doesn't know where the Transmission Owner's substation is located relative to their project. The Proposer responded that it would be less likely to be a node given the smaller contracted background, but there is no guarantee it won't be a node, and the location of the substation can only be confirmed once Transmission Owner conducted their siting surveys. Some Workgroup members noted that this issue could subject a category of projects to an unfair risk of failure and the Workgroup agreed a solution to this point needed to be developed in the final proposal.

One Workgroup member highlighted the limited planning resource of specialists, such as fauna and flora surveyors, that are needed in order to make a planning application in the UK (as well as the planning officials, who consider the planning applications). They noted that entirely forward-looking milestones, for all the existing projects that met Gate 2, would put an unreasonable risk on developers as well as an additional burden upon the staff of the various Planning Authorities. They also asked for the Proposer to provide worked examples of how these forward-looking milestones would work, if CMP435 was approved, with staged offers both with the same technology and different technologies.

The Proposer also stated their view that the timelines for CMP435 should mirror those for CMP434.

Element 12. Setting out the general arrangements in relation to Gate 2

Concerns were raised in the earlier Workgroups about the level of work required for all parties (including industry) to have the proposed process in place for a proposed January 2025 go-live, should the CMP434/CM095 and CMP435/CM096 modifications be approved in December 2024 (as proposed at the time of consultation, pending Authority approval). It was discussed that the go-live date should be inclusive of a reasonable time period post Authority decision to enable industry to be compliant with the final modification solution.

Element 13. Gate 2 Criteria Evidence Assessment

The Proposer stated that the Gate 2 criteria evidence assessment will be set out in the Gate 2 Criteria Methodology, which would be subject to a separate consultation process (if that Methodology is taken forward, by the Authority, via changes to the ESO's Transmission Licence).

However, The Proposer presented to both CMP434 and CMP435 the evidence that the Proposer intends that developers will need to provide to the ESO (or, in respect of Relevant Small and Medium Embedded Generation, to the DNO or Transmission-connected iDNO).

These are assessment process requirements, as discussed in CMP434, and there are no differences proposed between CMP434 and CMP435, except that on the Self-Declaration Letter a developer can also identify (in this Self-Declaration Letter) if they wish to advance the current contracted connection date for their project, and if so to which connection date if possible.

A Workgroup Member questioned if seeking advancement of their project via the Self-Declaration Letter should be a separate request from the developer to the ESO, but the Proposer argued that having the information in one place is better for efficiency. Workgroup members suggested that the minimum percentage of applications sample checked should be defined by the Authority and should be consistent across Transmission and Distribution. Some Workgroup Members felt that 100% of duplication checks (rather than a sample) should be done, which is the DNO approach, and for CMP434/CM095 and CMP435/CM096 checks could potentially be automated or checked/audited by other parties (including Artificial Intelligence options), uploaded to the application portal or notarised. The Proposer agreed to consider this, however noted that it would be dependent on whether the systems in place will enable red line boundaries to be overlaid on top of each other (with a Workgroup member supplying examples of this to be considered, e.g., onshore wind farms with solar generation on the same land).

There was some suggestion of a lighter touch process for this one-off Gate 2 checking exercise for CMP435. For example, a Workgroup Member suggested that the ESO rely on Self-Declaration Letter but that the ESO or DNO/Transmission-connected iDNO should have a time period after the cut over date to check all the Gate 2 evidence, otherwise there could be a different percentage of checking for CMP435 between the ESO and DNO/Transmission-connected iDNOs. Some Workgroup members advised that the percentage shouldn't be different between CMP434 and CMP435 modifications just because the sample size is different.

Element 14. Gate 2 Offer and Project Site Location Change

The Proposer asked for Workgroup views on how a change in an existing contracted project's location between Gate 1 and Gate 2 facilitation could work as an option for developers to pause their Gate 2 obligations (e.g., if a connection point in a Gate 2 offer differs from what is indicative or requested in the Gate 2 to Whole Queue process) and whether such an option was necessary (i.e., to be allowed 12 months from acceptance of a Gate 2 offer to hold their newly contracted queue position (in the context of CMP435) to find a new location). This was to offer optionality to the developer of existing contracted projects and if a new location for their project could not be found in that time, the project's capacity would be reallocated.

The Proposer stated that the option was more relevant to future projects (to be covered by CMP434/CM095) rather than existing projects (covered in CMP435) and would only likely apply (in the context of CMP435) to the projects who would have met Gate 2 but did not have a confirmed connection date contracted. The Proposer acknowledged a Workgroup member's comments that often substations will be named within the project agreement signed with the ESO but without a location (for that named substation). Workgroup

members commented that the Project Site Location Change could therefore also be very relevant to existing projects that fall within the scope of CMP435 (i.e., contracted offers).

As the option was posed as non-reversible for developers that take it, a Workgroup member suggested the ESO could provide a range of suitable alternative locations, and more effective information on locations in the earlier stages (e.g., the expected connection times).

It was noted by the Proposer that Grid Supply Points (GSPs) are out of scope for CMP435/CM096 modifications.

It was also noted by a Workgroup member that this option would not be available to Distribution-connected applicants and there could be a disadvantage to Distribution if, within a 12-month option, 3-6 months (of the 12) is needed to accept an offer and subsequently the distribution system design still has to happen. The Proposer felt this situation was less likely for embedded generation so therefore a rarer occurrence.

Several Workgroup members noted that they did not believe this element was necessary and noted that it could lead to gaming of the application system (land being held or projects going through Gate 2 to then sell off land to the highest bidder lower in the queue). The Proposer acknowledged that there were risks but felt the cost of losing queue position if the option for a project ended without a new location was a significant deterrent. It was recognised by the Proposer that there was more Workgroup opposition to this than support.

Element 15. Changing the offer and acceptance timescales to align with the Primary Process timescales (e.g., a move away from three months for making licenced offers) - not part of the CMP435 solution

Element 16. Introducing the proposed Connections Network Design Methodology (CNDM)

The Proposer outlined that the CNDM is the proposed process by which the ESO and TOs will assess connection applications and define the roles and responsibilities of the ESO and TOs in conducting these activities.

The Proposer also noted that the CNDM would (as well as setting our capacity allocation) also include a new process for “capacity reallocation”, under which available transmission capacity would no longer be allocated to the next project in the queue on a ‘first come, first served’ basis. Instead, capacity would be allocated according to criteria to be defined in the CNDM, Gate 2 Criteria Methodology and Project Designation Methodology. The Proposer presented some suggestions on how the capacity reallocation mechanism might work, although these suggestions will not be codified and are not included in this consultation.

The Proposer initially noted that they believe the following should be codified in relation to the CNDM:

- The requirement for the ESO to have a CNDM;
- An obligation on the ESO to publish the CNDM; and
- An obligation to engage with industry on the content of the CNDM.

The Proposer subsequently confirmed to the Workgroup that the requirements for CNDM need to be first set out in the license and accordingly it was not intended to codify these three items at this moment in time.

The Workgroup supported these points being codified. In addition, part of the Workgroup noted that they believed it was a legal requirement, in respect of connections, to be codified as the Authority need to approve the content of the document.

The Workgroup expressed concerns about the Proposer's intention not to codify the proposed new capacity reallocation mechanism, instead including it in the non-codified CNDM document.

One Workgroup member queried the possible consequences if the CNDM is not approved by 01 January 2025 and a member noted the need for transparency and visibility for stakeholders of the process and practical application, by the ESOs and TOs, of the CNDM in the future (i.e., where costs, such as delay fees, could be recovered from).

One Workgroup member noted that there would be changes required within the STC and STCPs to outline the CNDM requirements.

A Workgroup member asked for it to be noted that the Proposer's position is to not discuss CNDM in CMP434/435 Workgroups going forward, in relation to the Connection Point and Capacity Reservation mechanism. Workgroup members stated they would like to understand more about the CNDM going forward (which the Proposer outlined will be subject to a separate consultation and Authority decision outside of CMP434/435). The Proposer stated that it is holding discussions with the TOs on content of the CNDM.

Element 17. Introducing the concept of a Distribution Forecasted Transmission Capacity (DFTC) submission process for Distribution Network Operators (DNOs) and Transmission-connected Independent Distribution Network Operators (iDNOs) - not part of the CMP435 solution

This element is not part of the CMP435 Proposal and is only part of the CMP434 Proposal.

Element 18. Set out the process for how DNOs and Transmission-connected iDNOs notify the ESO of Relevant Embedded Small Power Stations or Relevant Embedded Medium Power Stations which meet Gate 2 criteria

The Proposer advised how the impacts of CMP435 aligns with current Distribution and Transmission Network operations, noting the need for any changes to fit into existing frameworks to avoid disruptions.

The Proposer noted that they do not have a direct contractual relationship with Distribution customers (unless those customers also hold a BEGA or a BELLA), explaining that they

will have a direct contractual relationship with DNOs and Transmission-connected iDNOs. The Proposer noted that CMP435 will have impacts on cost allocation, operational procedure and regulatory compliance and there will be elements that DNOs and Transmission-connected iDNOs need to manage/mitigate with their connecting customers.

It was noted that DCUSA, Licences (issued by the Authority) for Transmission and Distribution and ENA guidance changes at this level must be driven by DNO/ENA. The ESO will continue to provide input and support. The core concern was felt to be the issue of capital costs being reallocated across fewer existing contracted projects if others do not meet the Gate 2 criteria by 31 January 2025 (date proposed at the time of this consultation). Workgroup members stated that enabling promotion of existing contracted projects into vacancies (i.e., those left in multi-customer Transmission contracts when one or more customers fails to the meet Gate 2 criteria by the date noted above) would promote those 'ready to connect' projects and reduce costs to then be reallocated.

One Workgroup member expressed concern that important features of the new arrangements affecting both DNOs and iDNOs were being developed in ENA working groups which include DNOs but do not have any formal representation by iDNOs. The Proposer notes that the ENA has engaged the INA to discuss and seek feedback on the development of DFTC within the ENA. The ENA has offered further discussions with the INA to ensure any concerns raised are resolved.

One Workgroup member noted that awareness is needed that Transmission-connected iDNOs may not be as able as DNOs are to absorb the capital costs associated with this modification, which could have competition implications. The Workgroup member also advised that, considering planning expiry dates, Transmission-connected iDNOs need to have a mechanism to reorder their individual connection queues and that needs to be the same across all DNOs and Transmission-connected iDNOs. A Workgroup member identified challenges in reordering these connection queues based on what comes from the Transmission side and work being required between the ENA Strategic Connections Group, Transmission-connected iDNOs and ESO on any revision of Distribution queue milestones.

One Workgroup member commented that if there is a change to transmission charging or the application of transmission charges, a new CUSC modification will need to be raised to address the issue.

Element 19. Contractual changes

In the early stages of Workgroup discussion, members asked what definition of 'contracted' the CMP435 proposed solution was intended to be using, to which the Proposer confirmed that applicable projects would have not yet completed or have met the Gate 2 criteria by the set date (which, at the time of this consultation, is anticipated to be 31 January 2025 at the time of this Workgroup Consultation). For further clarity please see table in Element 3. The Proposer noted that legal advice was being taken on changing the existing contracts and other items such as connection dates (e.g., consideration of the existing variation clause in the Connection Agreement if any changes to the CUSC are made). For clarity, the ESO proposal for the definition of 'contracted' is that it covers holders of a signed Transmission and/or Distribution connection offer.

Workgroup members asked whether an existing contracted party not meeting the Gate 2 criteria (by not submitting the Self-Declaration Letter to the ESO as per Element 13, or the

letter not being deemed competent by the ESO by the defined due date) resulting in their contract converting to a Gate 1 agreement, will be treated the same as a new applicant to Gate 1. The Proposer confirmed that treatment will be the same in principle with, for example, both having an indicative (not a confirmed) connection location and connection date.

In Workgroup 10, the Proposer outlined the process to be applied to the four main groups of existing projects:

1. Those not submitting a Self-Declaration letter for Gate 2 by the due date;
2. Those submitting a Self-Declaration letter for Gate 2 by the due date with no advancement requested;
3. Those submitting a Self-Declaration letter for Gate 2 by the due date and requesting advancement; and
4. Those submitting a Self-Declaration letter for Gate 2 that hold a Transitional Agreement requesting a fully studied offer.

Workgroup members requested information about timings for when the contract changes would be effective from (if CMP435 was approved) as well as information to help developers (whose projects fall within the scope of CMP435 – see the table under Element 3 above) understand their securities profiles for 2025.

An update was suggested to be shared by the ENA on the impact of this proposed change on the distribution system and distribution customers (re: queue re-ordering, project substitution and capital cost reallocation – although it was noted that some of these elements will be addressed via CNDM). However, the Proposer noted that many issues specific to DNOs/Transmission-connected iDNOs and their customers would have to be dealt with by the DNOs/Transmission-connected iDNOs, for example through changes to the DCUSA, changes to ENA guidance, or through other routes. The Proposer notes that the ENA has set up a working group to specifically look the TMO4+ assessment and impacts, in addition to the ENA working group in DFTC.

The Proposer agreed to take away and consider the request from the Workgroup for clarity on scenarios where TEC reductions are requested or needed.

A Workgroup member questioned the proposed approach to existing contracts that are moved to Gate 1 (where their existing contracted connection date and connection date revert to being indicative offers), which are proposing to use the provisions of the CUSC without issuing a contract variation (also known as an ‘Agreement to Vary’). The Proposer’s legal representative noted the existing precedent and expected efficiencies from such a generic approach (i.e., a variation to the CUSC) to undo the active element of all the existing (in-scope) agreements rather than adding in additional clauses into each of those (many) existing agreements. It was acknowledged that there was risk for an existing, secured, agreement to change to an indicative offer without an Agreement to Vary.

Workgroup members noted that this proposed approach (to the contract variation) is different to the approach taken for CMP376, under which Agreements to Vary were issued to customers to insert Queue Management Milestones. Workgroup Members asked why the proposed approach here for CMP435 was different to that taken for CMP376.

The Proposer confirmed that under CMP376, the changes were not generic and required that a bespoke Appendix Q had to also be issued to the impacted parties, requiring an Agreement to Vary to introduce this, but do not foresee the need for any bespoke changes to be issued bilaterally under CMP435.

For existing staged agreements, it was discussed that there would be a hybrid legal front end to the agreement to cover where, for each stage, Gate 1 and Gate 2 was being triggered. If a future stage (of an existing, contracted, project) did not meet the Gate 2 criteria it would receive an indicative Gate 1 connection date, for that stage only, for the same connection point as the initial stage.

It was questioned whether the connection point and capacity reservation for existing Interconnectors would be sufficient to satisfy Ofgem's 'Cap and Floor' requirements. Ofgem considered this query and does not expect the code modification(s) as proposed to have a negative impact for projects seeking a Cap & Floor. Should there be any reservations or concerns with the current proposals for OHAs, these views should be made known in the upcoming consultations so that these views can be properly heard/considered.

Further discussions covered:

- Recommendations for wide socialisation of these proposed changes to ensure smaller developers/CUSC parties are aware of the possible changes, arising from CMP435, to their existing contractual rights.
- How the CNDM will demonstrate timelines for advancement – the Proposer noted that CNDM will set out the assessments for whether advancement is possible (noting that the CNDM must be consulted on by the ESO and approved by the Authority before go-live, which is currently anticipated to be 01 January 2025.
- When to update the existing contracts (e.g., pre-advancement or when those not advancing get a Gate 2 offer).

Securities and Liabilities: Compensation/Reconciliation Arrangements

The Workgroup discussed whether a reconciliation process or compensation arrangement is needed/in scope of this modification to reimburse securities if a project with a current offer is not deemed to have reached Gate 2 by the due date (and whether other legitimate costs incurred by a developer, such as a project's de-activation/re-activation costs, should be considered as part of this arrangement).

In discussion about the process to change existing agreements, the Proposer answered a Workgroup member's question on the return of a project's securities if a developer was not applying for Gate 2 by the due date, by confirming that a 'reasonable timeframe' for returning a project's securities would be defined but it would not be left to expire.

The Proposer confirmed that in respect of legitimate development costs incurred by developers prior to go-live, they were not proposing any payment/compensation in the event they have not met Gate 2.

In respect of how transmission securities and charges (e.g., capital contributions) are passed through to relevant Embedded Generators, this is not within the scope of CMP435

as this is related to distribution network charging arrangements (which are separately under consideration through the Connections Action Plan and the ENA's Strategic Connections Group work programmes).

Securities and Liabilities: Fixed Options and Treatment of interest

There were Workgroup discussions on whether liabilities would have a fixed option and how securities are treated in terms of interest. A Workgroup member noted that in respect to connection charges, that if a charge is at risk of being treated as a security there is a judicial review precedent on how securities should be treated, by the network operator (that holds the said security) in terms of paying interest (to the developer).

Securities and Liabilities: Regarding I/DNOs

A TO Workgroup member sought clarity on connection charge liability and capital contributions from Transmission-connected iDNOs. They questioned whether DNOs or Transmission-connected iDNOs were submitting actual funds to ESO to satisfy liabilities or whether CUSC permits a level of flexibility on letters of credit for parent company guarantees (meaning liability for securities was notional and subject to the ESO having to intervene). This was not confirmed by either the DNOs or Transmission-connected iDNO parties.

A Workgroup member noted that the DNO decides how to split liabilities across customers so with distribution connecting projects dropping out/being terminated there would be fewer customers to split any transmission related liabilities across but accepted that work in this area, on the distribution side, would be out of scope of this CMP435 modification.

Securities and Liabilities: Relating to advancement

The Proposer clarified in response to Workgroup members' questions on securities in relation to advancement/progression, that:

- Projects meeting the (new) Gate 2 from the go-live date but with no updated contract yet would still have a connection date (this would come from the project's original contract) so in the interim period these projects would need to still secure (as now).
- It's not expected that securities will change if an existing contracted project is not seeking advancement.
- If an existing contracted project is seeking advancement, then the securities and liabilities for that project could change.
- If a project has met Gate 2, from the go-live date, but not sought advancement and other projects have dropped out ahead (of them) and works are no longer needed whether the securities, for such projects, should change - the Proposer noted that this would be post-Gate 2 to whole queue process so contracts and securities profiles could change (but it was not the primary focus of this modification).

In relation to DNOs/Transmission-connected iDNOs and queue management, a Workgroup member raised that projects remaining after other projects are removed (from the queue, by virtue of not meeting the Gate 2 criteria by the due date for the Self-Declaration Letter submission) will need to pick up a variation in the project's securities, unless the DNO or Transmission-connected iDNOs takes security liability. Also, projects advancing may be under new terms and conditions and securities in the new (post CMP435 approved) arrangement.

Element 20. Cut Over arrangements

The Proposer outlined the differences in transitional and cut over processes and periods, noting that the transitional period and process was not part of the CMP435 modification but would be explained for context. The cut over date was proposed to be 10 Business Days after the Ofgem decision date on this code modification.

In Workgroup discussions, members raised the wish to understand how staged projects would be affected in the transitional/cutover period and the continuation of works during these periods.

When asked if there were planned changes to securities and liabilities for offers currently being made or the next run, the Proposer said that discussions were ongoing internally (these details are not directly in scope for CMP435). A Workgroup member requested a step-through for existing users on how their security obligations were intended to be calculated in 2024 and 2025.

Other topics discussed within the Workgroup not in the Proposer's solution:

Advancement process

Workgroup members raised the question as to whether queue advancement required a separate process, with caution raised by a Workgroup member as external stakeholders are expecting appreciable advancement of existing projects as part of the introduction of the proposed Connection Reform modifications such as this CMP435 proposal (re: House of Commons Environmental Committee Report).

A Workgroup member advised care with the terminology used i.e., continuation on existing contracted terms vs advancement in queue position. A Workgroup member suggested that consideration was made for Gate 1 and Gate 2 to be implemented prior to offering advancement for existing contracted projects.

A Workgroup member from Distribution engaged with the Proposer to discuss the process if customers drop out of a multi-customer application for the effect on cancellation/advancement.

In Workgroup 10, a Workgroup member asked about the process with a DNO and batch project progression (if some existing projects want to proceed and other existing projects do not). The Proposer expressed a view that the DNO would be the party seeking advancement (from the ESO) and so embedded projects would need to discuss progression with the DNO or Transmission-connected iDNO.

Applications for advancement for projects with BEGAs were also referenced, with the Proposer agreeing to work up an example, but expected advancement would need to be sought via the ESO contract and linked to what the DNO or Transmission-connected iDNO could offer.

A Workgroup member asked how the re-arrangement of the queue would be managed if parties offered advancement do not accept the offer to advance. The Proposer responded that this would be part of the CNDM work.

A Workgroup member suggested a 'detrimental impact' test at Gate 1 to prevent unnecessarily large capacity being set at Gate 1 then being dropped for Gate 2 (to be part of the CNDM work).

Impact Assessment and Request for Information for Current Queue Customers

Due to the lack of data on how many projects could (would likely) proceed through Gate 2 by the first due date[33] (as proposed) it is difficult to model the impact, but the Proposer confirmed that they are working with stakeholders to consider how they can improve the available data.

The ESO issued a formal Request for Information (RFI) to developers with projects that are currently in the transmission and distribution connections queue to establish whether land rights and planning consent had been secured for projects in-flight.

A RFI was published on 28 May 2024 to request information from developers to support the development of improved cost-benefit analysis of the CMP434/CM095 and CMP435/CM096 proposals as part of the future decision-making process. According to the ESO, the RFI derived information is only planned to be used to develop thinking related to (and inform on aspects of) the code modification process and is not planned to be used in respect of Gate 2 evidence in the future.

The RFI received responses covering 2,576 projects that are contracted and within the current queue to connect at transmission or distribution.

Unintended Consequences of Applying Gate 2 to the Whole Queue (the one-off initial process vs the enduring process)

Workgroup members warned that, if too stringent, these proposed changes could restrict strategic or novel projects from being able to connected and suggested input from the Authority and/or DESNZ would be helpful. The Authority Representative confirmed that DESNZ does not want the modification to include provisions that would allow DESNZ or the Secretary of State to be able to designate projects in respect of those projects' connection arrangements/status.

Considerations were raised in the Workgroup about the resource required to get projects through from Gate 1 to Gate 2, with impacts on modelling and planning.

A Workgroup member noted that to qualify for a CfD bidding round, projects need a signed grid connection offer for the relevant delivery years. An existing contracted project applying to the ESO for advancement in January 2025 won't receive a signed advancement offer from the ESO until end of 2025/beginning 2026, so qualification with an advanced date will not be possible until CfD rounds held in 2026 onwards, i.e., projects seeking an advanced date won't be able to qualify for Allocation Round 7 in 2025.

[33] Which, at the time of this consultation, is anticipated to be 31 January 2025.

Legal Text Discussions

It was suggested by the Workgroup that the intended wording for (a) the Self-Declaration Letter (that existing projects will need to submit to the ESO by 31 January 2025 if they wish to retain their existing contractual arrangements) and (b) the requirement to submit a planning application, are checked to ensure they reflect jurisdictional requirements associated with land, seabed and the planning regime for (i) Onshore England, (ii) Onshore Wales,(iii) Onshore Scotland, (iv) Offshore England, (v) Offshore Wales, and (vi) Offshore Scotland, and the use of land/seabed law and planning specialists for this task should be considered.

While legal text will be developed further post-consultation, the sections of the CUSC expected to be amended were outlined by the Proposer and these are expected to be to the existing Section 10 or a new section to outline how a project enters into the new process (a parallel process to CMP434 with exceptions).

Application Fees

Workgroup members advised on the potential legal implications (and thus of possible legal challenge) of amending existing obligations of placing new obligations on developers with existing contracts due to those parties having already paid an application fee. It was also raised for consideration that any changes to the treatment of application fees would warrant changes to Section 14 of the CUSC.

Throughout the Workgroup discussions, clarity was sought for when, with CMP434 and CMP435 (if applicable), application fees and/or other fees would be required to be paid by developers, considering different scenarios (e.g., if they missed Gate 2/don't have evidence for it, if they meet Gate 2 but want to re-work an offer, such as changes in connection dates) and where any associated costs and liability sits due to the reason for the charge (i.e., which party causes the need for a fee) in order to ensure cost-reflectivity.

Workgroup members supported the process being mindful of avoiding discrimination against certain users (especially in the event of batch assessment), and a consideration of whether applications will surge after implementation to avoid costs from applying in the transitionary period.

As application fees are a sunk cost (i.e., the cost related to the reasonable costs of the ESO and TOs in processing an application), the Proposer confirmed that applying Gate 2 to the Whole Queue will not result in any refund/rebate of those application fees already paid historically by existing contracted developers. However, reconciliations, where not undertaken by go-live, would still be undertaken.

- Application Fee scenarios, in relation (which set out Proposer intention but not being part of the proposals) to go-live:
    - **Existing contracted projects which do not meet Gate 2 at go-live** (that is they fail to provide a valid Self-Declaration Letter to the ESO by 31 January 2025, at the time of this consultation) and therefore need to apply via a future Gate 2 window/batch will need to pay the prevailing application fee for that Gate 2 process at that time.
    - **For those existing contracted projects which submit a valid Self-Declaration Letter to the ESO by 31 January 2025, at the time of this**

consultation) to demonstrate they have met Gate 2 and wish to remain with their existing contracted connection date and connection point there will be no application fee.

- **For those existing contracted projects which do not submit a valid Self-Declaration Letter to the ESO by 31 January 2025, at the time of this consultation) to demonstrate they have met Gate 2** there will be no application fee (however, their existing contracted arrangements, in terms of connection date and connection point, will no longer be confirmed but these will, instead, be indicative and contained in a Gate 1 contract).
- **For those existing contracted projects which submit a valid Self-Declaration Letter to the ESO by 31 January 2025, at the time of this consultation) to demonstrate they have met Gate 2 and wish to advance their connection date** there is proposed to be an application fee. In Workgroup 10 the Proposer indicated their view was that a fee would be appropriate as further work would be needed, by the TO, to restudy the advancement (i.e., a requested vs natural advancement). If in the event that the developer does not sign the Modification Offer, they will still need to pay for the costs incurred in developing such Modification Offer as per current process. Workgroup members asked how advancement in this case would differ from;
    - (i) the current process where projects drop out ahead – with projects being potentially offered an earlier connection date without being required to pay an additional fee
    - (ii) The Expressions of Interest that the ESO requested from customers as part of the 5-Point Plan (the process has been known variously as the “transmission works review” and the “review of construction planning assumptions”). The Workgroup members’ understanding was that, in this case, projects could be offered an earlier connection date without having to pay an additional fee. Workgroup members suggested a common approach, to fees, across all areas of connection reform would be helpful, which the ESO took away to consider.

Members also asked whether it was appropriate to charge an application fee for seeking advancement given that, due to the proposed capacity reallocation mechanism in the CNDM, developers may not know how likely their project is to receive advancement.

When reviewing the Proposer’s intended process overview in Workgroups 4 and 5, clarity was sought on how the application fees would affect the ordering of the connection queue and whether spaces released from a project either being removal or dropping-out would be offered to another project that hadn’t paid an application fee (that project just being next in the connection queue). The Proposer stated that any projects not seeking advancement (and therefore paying an additional fee) would not be offered an earlier connection date. In addition, the Proposer stated that, under the proposed CDNM, capacity would no longer automatically be allocated to the next project in the connection queue.

A Workgroup member questioned the situation with inter-trips and publicising when projects fall out ahead in the connection queue. The Proposer agreed to consider this as part of the exercise with the TOs on the CNDM.

The Proposer took note of questions on its rationale for a 3 month wait for the ESO paying refunds (to developers) relaying to the Workgroup that, in the view of the Proposer, refunds would not be appropriate if fees would be lapsing in due course (this was subsequently updated in Workgroup 10 to note that a 'reasonable timeframe' for refunds would be defined).

A Workgroup member raised concerns that if application fees (that were paid by developers of an existing project) weren't returned, but an existing contracted project was then put back contractually to a different status/level (as a result of CMP435) and required to pay another application fee (to end up at the same place, in terms of status/level, with a confirmed connection date and connection location), the project would be paying twice as well as possibly being double securitised.

There was a discussion in relation to the Gate 1 application fee and the rationale behind the methodology that was being proposed.

Capital Contributions

Workgroup members noted that the CMP435 proposed change would see existing contracted projects having their contractual status changed, with some going from having a 'confirmed' connection date, connection location and connection queue position to having an 'indicative' connection date, connection date and no connection queue position. Given this Workgroup members were concerned to understand what (for those projects whose contractual status changed) would be the position in terms of the Capital Contributions that those affected parties (i) had made to date[34] and (ii) were expected to make going forward according to their existing contract(s) with the ESO.

The Proposer outlined the need to discuss Capital Contributions with TOs for potential cashflow implications, in particular for existing contracted projects that had not met Gate 2 by the required date (which at the time of this consultation is anticipated to be 31 January 2025), and consumer impacts as a result of any rebates.

A call between the Proposer and TOs was suggested by a Workgroup member to discuss 2024 data available for assessment of an approach to take in the 'transitionary' period. Other Workgroup members supported the need for these discussions to be shared with the Workgroup at an appropriate point and it was suggested that DNO and Transmission-connected iDNO parties could identify where risks lay for them. As capital contributions prior to connection are optional it was discussed that there could be the possibility of rebate for pre-connections projects (i.e., to align with the proposed approach for User Commitment liability and security relief for projects which have not met Gate 2 by the required date – namely that these liabilities and securities would not be applied to Gate 1 projects).

Following initial discussions with TOs, the Proposer gave an update that they were assessing the size of the challenge to know how to tackle it to avoid double-charging. Until

[34] This being the date the project's status changed, which at the time of this consultation is anticipated to be 31 January 2025.

all information is gathered on parties who have not meet the Gate 2 criteria, they are currently unable to assess the scale of this potential issue, so a modification in 2025 may be suitable to address it.

Concerns were shared by the Workgroup regarding those developers that have already paid a Capital Contribution for their project(s) and the uncertainty around the Capital Contribution rebate.

A Workgroup member asked how Capital Contribution applies to DNOs and Transmission-connected iDNOs (see the Element 18 section of 'Workgroup considerations').

Other Development Costs

In respect of development costs incurred by developers for existing contracted projects prior to the go-live date, the Proposer outlined to the Workgroup that they are not proposing any payment/compensation in the event those projects have not met Gate 2.

Transitional Arrangements

In Workgroup 6 it was explained that the transition period (for connection applications received by the ESO prior to an Authority decision on CMP435 – which at the time of this consultation is proposed to be 13 December 2024, pending Authority approval) is out of scope for CMP435 but the cutover and implementation period (end of December 2024 to end of January 2025, at the time of this consultation) is in scope for this CMP435 modification.

Scenarios for the treatment of projects, during this transition period, which are at various different points in their journey, which were posed by Workgroup members in the query log, and were addressed in the meeting slides.

The Proposer confirmed that while conversations with TOs were ongoing there were no TOCOs to be received, by the ESO, from TOs in the transitional period.

It was asked whether liabilities and securities would be required to be in-place for applicants during this period, to which the Proposer noted that such costs were intended (for those projects that apply during the transition period) to be as close to a Gate 1 offer as possible. Application fees will remain the same as they currently are but developers that choose a variable fee will only be charged for the amount of work undertaken to produce the offer.

Questions were raised by an Interconnector Workgroup member about how interconnectors and OHAs applications that are submitted during the transition period are addressed as to the offer they would receive (a query agreed to be logged, and discussions held with the Proposer).

When questioned on timings for the transition period, the Proposer agreed dates would be checked with the legal team to ensure all offers issued by the ESO would be out to customers by the end of December 2024 so they can be in a contracted position by the end of January 2025. It was noted that there would be a timing risk introduced if the Self-

Declaration Letter process for evidencing applications (having met the requirements of Gate 2) was significantly changed away from the proposed process. An ENA representative answered a Workgroup member question to note that there shouldn't be differentiation in evidencing by DNOs or Transmission-connected iDNOs and ESO, and they will work together on this.

A Workgroup member raised the possibility of a moratorium period (where, for a period of time, no new applications would be permitted) as compared to a derogation to transition into an unapproved process. The Proposer noted that a moratorium option would not be something that the ESO would be proposing due to its impact on the markets. The Proposer discussed the fallback plan if the proposed four modifications[35] are not approved, explaining that the ESO would revert any transitional offers (that had been issued up to that date) back into standard offers to ensure the offers are consistent with those that customers would receive currently.

A Workgroup member asked what a Gate 1 offer will look like for those receiving them in this transition period stage, to which the Proposer explained that it would look like a full offer but with most appendices amended, i.e., many aspects within the appendices would be blank.

It was clarified by the Proposer in Workgroup 10 that, in light of further consideration, the transition period was still proposed to apply from 01 August 2024 but only for new applications for directly connected customers, and it would not apply to (i) project progressions, (ii) BEGAs/BELLAs or (iii) Mod Apps. The Proposer outlined the key elements to be included/not included in transitional offers (meeting slides, page 12). The period was originally proposed to include projects that clock started from 31 July 2024 for Mod Apps or 01 August 2024 for New Apps up to the introduction of TM04+.

The Workgroup were informed that Ofgem will be written to, by the ESO, via a Derogation/Letter of Comfort regarding this use, by the ESO, of transitional offers (and also regarding a cut over period which will form part of the second version of the Derogation sent to Ofgem at a later date to also include Mod Apps project progressions, BEGAs and BELLAs). Clarification was sought by Workgroup members as to which body the letter, from the ESO, have/will be sent to (i.e., Ofgem or the Gas & Electricity Markets Authority) so the Workgroup could understand that any requests made, and responses received, will be legally robust. A Workgroup member suggested a Derogation may be appropriate on the basis of a proposed lower upfront cost (the Proposer confirmed a standard fee will be charged for a transitional offer but then reconciled down).

Questions were raised about the impact of the transitional period dates on the industry's ability to raise alternatives to this CMP435 Modification and whether the Authority would be invited to agree to a Derogation in relation to fees to be applied to applications received by the ESO during the transition period.

A Workgroup member asked if these transitional arrangement suggestions had been discussed in any other Industry forums with confirmation, from the Proposer, that these details had been shared at the ESO's Customer Connection Forums in June and are to be shared again in July. The Proposer confirmed they have also been discussed with the DNO's through the ENA and at both the Connections Process Advisory Group and the Connections Delivery Board.

[35] CMP434/CM095 and CMP435/CM096.

A Workgroup member said they were considering an Alternative Request to CMP435 that would be based on the longstop date on QM milestone M3 but was concerned that this might be prejudiced by the proposed transitional arrangements. The member would discuss their concerns with ESO.

It was noted that the Proposer did not intend that Connection Point and Capacity Reservation would be part of transitional arrangements.

Workgroup members expressed concerns in relation to Modification Apps and project progressions not being included, within the transitional arrangements, as this appeared to be keeping/pushing back dates via a transitional offer and the process of installing a transitional period (i.e., with Derogations being needed from the right parties vs Letters of Comfort). The Proposer explained that there is a need to reduce the amount of time Modification Applications and Project Progressions are put into the intended transitional process due to them being live agreements and the knock on impacts it has to other processes, i.e., BEGAs and BELLAs.

Specific points were raised by the Workgroup about:

- The effect of this transitional arrangement for DNOs applying for changes, now countering the intent of reform.
- Whether this will encourage transitional offers to be requested to 'bank' a queue position – the Proposer said it would be no more an option than it is now.
- How Mod Apps will be treated if a project does not apply before 01 August 2024 – the Proposer responded that dates for Mod Apps and project progressions would be slightly behind the 01 August 2024 date and updates were due shortly.
- Whether the Mod Apps arising during the transition period could cause delays in the queue if Mod Apps were continued to be treated as they currently are.

Support for the intended transitional arrangements was raised by a member to capture projects with an assigned position for when Connection Reform starts.

A rationale as to the benefit of this intended transitional approach for August, September, October 2024 was requested, and it felt that more information/exploration/discussion was needed on this topic.

Queue Management – Appendix Q

Once Gate 2 is met, a populated Appendix Q will be included, by the ESO, into the existing Agreement issued to a developer for their project with any necessary updated forward-facing Queue Management milestones. For any Agreement that has Queue Management Milestones included but does not meet Gate 2 by the required date (which, at the time of this consultation, is anticipated to be 31 January 2025) then the Queue Management milestone clauses will remain in the Agreement. However, these Queue Management milestones will no longer be relevant with them having been disapplied. Forward-looking Milestones are currently being investigated by the ESO and the Proposer has set out its intention to have a forward looking M1 milestone. If this milestone is within the final proposal and is approved, the ESO will update the CUSC and Queue Management Guidance to reflect this in the future.

Gate 1 Financial Instrument

The Proposer stated in their initial proposal that they would keep the use of financial instruments at Gate 1 under consideration. In the Workgroup phase, the Proposer presented the concept of a Gate 1 Capacity Holding Payment; a £/MW payment to (i) incentivise timely progression between Gate 1 and Gate 2, (ii) discourage multiple speculative applications and (iii) encourage only viable projects to enter and remain in the connections process.

The Proposer further developed the Capacity Holding Security as a potential solution (in terms of a financial instrument) and explained that this would secure against any Anticipatory Investment, that was undertaken by the TOs, based on the pool of Gate 1 projects.

Several Workgroup members raised concerns with the Capacity Holding Security, with some noting, for example, that the flat rate cost would be disproportionate to different projects and could be prohibitive for some projects whilst other Workgroup members noted that, according to the Transmission Licence, such an instrument would need to be cost reflective (and it was not clear that this would be the case here). Several Workgroup members noted that they thought this should be included in a separate modification to CMP435 to allow time to develop the detail of the change and to assess the impacts.

In light of this feedback, the Proposer decided to remove the Capacity Holding Security from their proposed solution and are instead proposing a ‘longstop’ date in relation to Gate 1. They also noted that they would keep financial instruments under review and could potentially raise a separate code modification at some point in future after further consideration.

Gate 2 Financial Instrument

In the initial proposal, the Proposer stated they would keep under consideration the use of financial instruments at Gate 2 to (if required) further strengthen the Gate 2 criteria (e.g., in addition to User Commitment, introducing some form of capacity holding securities from Gate 2 through to connection) to encourage only viable projects to remain in the connections process.

After further consideration, this was not developed as an option in addition to the proposed Gate 2 criteria. The Proposer believes that the Queue Management Milestone(s), forward calculated from Gate 2 offer acceptance date, will encourage timely progression of projects. This context was shared with the Workgroup and the Workgroup agreed there should not be an additional financial instrument introduced (via the CMP435 Modification) at this stage of the process. The Proposer also noted that they would keep financial instruments under review and could potentially raise a separate code modification at some point in future after further consideration.

Gate 1 and Gate 2 fast dispute process

The Proposer advised that there will be a process for addressing situations where developers disagree with the ESO’s application (to the developer’s project) of the new Gate 1 and/or Gate 2 process. The Proposer developed several worked examples, of the

approach it would take to use to address these disagreements and a proposed timeline for this, noting that disagreements concerning clerical errors would be dealt with using competency checks.

Several Workgroup members requested another deadline for changes to applications, to allow clerical errors to be resolved. One Workgroup member queried why an applicant would use this disagreement process rather than the current disputes process (as set out in Section 7[36] of the CUSC). The Proposer clarified that this disagreement resolution process would not be codified and was being introduced as an ESO process to fast-track disagreements but noted that applicants could still use the existing disputes process in the CUSC. Another Workgroup member asked if the disagreement resolution process could involve a shorter window, so all applicants get the same time to resolve any disagreements. After discussion with Workgroup the Proposer decided to remove the fast-track process from the proposal and instead rely on the existing, codified, dispute process. However, an optional and informal fast-track disagreement resolution process will continue to be developed to optionally supplement the additional codified process. The Proposer acknowledged a Workgroup Member's suggestion to rename the process (to 'disagreement resolution' rather than 'dispute') to distinguish it from the formal, existing, CUSC dispute process.

Draft legal text

Legal text will be drafted after the Workgroup Consultation has been completed.

What is the impact of this change?

Proposer's assessment against Code Objectives

Proposer's assessment against CUSC Non-Charging Objectives	
Relevant Objective	**Identified impact**
(a) The efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence;	**Positive** Prioritises readier and/or more viable projects enabling us to help the government to meet its Net Zero targets.
(b) Facilitating effective competition in the generation and supply of electricity, and (so far as consistent therewith) facilitating such competition in the sale, distribution and purchase of electricity;	**Positive** Quicker connections for viable projects (by removing speculative and stalled projects from the connections queue) needed to deliver Net Zero (at the moment developers seeking to connect are now experiencing significant delays, with some customers being offered connection dates in the late 2030s)
(c) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency*; and	**Neutral**

[36] CUSC - SECTION 7 (nationalgrideso.com)

(d) Promoting efficiency in the implementation and administration of the CUSC arrangements.	**Positive** Addresses the current queue (by reducing the size of the current queue or slowing down the rate at which new projects are added to the queue) allowing readier and/or more viable projects to access earlier connection dates.
*The Electricity Regulation referred to in objective (c) is Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (recast) as it has effect immediately before IP completion day as read with the modifications set out in the SI 2020/1006.	

Standard Workgroup consultation question: Do you believe that CMP435 Original proposal better facilitates the Applicable Objectives?

When will this change take place?

Implementation into the CUSC date
1 January 2025

Date decision required by
13 December 2024[37]

Implementation approach

If this Modification is approved by the Authority (proposed to be December 2024 at the time of consultation, pending Authority approval) then the associated code changes would (at the time of this consultation) come into effect on 01 January 2025.

From this date all existing connections agreements with the ESO, as required according to the CUSC for in-scope projects (these are summarised in the table at the start of Element 3 shown within the Proposers solution), will be amended after the anticipated go-live date of (at the time of this consultation) 01 January 2025.

As a result of that change, any of the such contracted parties that have a contracted connection date and connection point (along with a transmission queue position) will need to submit, to the ESO (or DNO or Transmission-connected iDNO, as appropriate), by 31 January 2025 (at the time of this consultation) a Gate 2 Self-Declaration Letter (evidencing that the project concerned has met the Gate 2 criteria) if they wish to maintain their existing connection date and connection point (along with, if relevant, their transmission queue position).

If a Gate 2 Self-Declaration Letter was not submitted by that date then the existing connection date and connection point (along with, if relevant, transmission queue position) would be deemed to have changed to ‘indicative’ (from ‘confirmed’) and would only be

[37] This represents the current proposed timeline for this modification (as of 25 July 2024), which is pending Authority approval.

confirmed when a Gate 2 Self-Declaration Letter (evidencing that the project concerned has met the Gate 2 criteria) was submitted to the ESO (or DNO or Transmission-connected iDNO, as appropriate) in the future, i.e., via the Gate 2 Process proposed under CMP434.

Note, in this scenario it is highly unlikely that the connection date and or connection point (along with, if relevant, the transmission queue position) would be maintained - any such parties should be cognisant of this risk to their project(s).

Where such projects have submitted a Gate 2 Self-Declaration Letter to confirm they have met the Gate 2 criteria by the required date (as above) then their existing connection contract will be updated after the Gate 2 to Whole Queue network design exercise as set out within Element 19 above.

The above is on the basis that the go live date is 01 January 2025 and this assumes that relevant changes to the ESO's Transmission Licence and the three new methodologies[38] (mentioned in this CMP435 proposal – see Element 1) have been approved, by the Authority, within timescales which allow go-live to occur from the 01 January 2025 date.

Although there has been wide consultation and engagement on Connections Reform, it is imperative that there is a cut over period to enable stakeholders to fully understand how the new reformed process will apply to them. As such, supporting guidance will be used once a decision has been made to get stakeholders up to speed with the new process prior to go-live.

Standard Workgroup consultation question: Do you support the implementation approach?

Interactions

☐Grid Code ☐European Network Codes	☐BSC ☐ EBR Article 18 T&Cs[39]	☒STC ☒Other modifications	☐SQSS ☒Other – DCUSA, Transmission Licence Changes

This modification directly interacts with CM096. There are also interactions with the modifications addressing Application of Gate 2 criteria to existing contracted background: CMP434 and CM095.

There is also a possibility of consequential changes to the DCUSA because of this modification.

[38] As listed in Element 1, on page 8-9.

[39] 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.

Changes will be required to the ESO licence to facilitate this modification; the ESO have been engaging with the Authority regarding this.

We do not foresee the need for Grid Code changes for our minimum change necessary approach and have verified this with industry.

How to respond

Standard Workgroup consultation questions

1. Do you believe that the Original Proposal and/or any potential alternatives better facilitate the Applicable Objectives?
2. Do you support the proposed implementation approach?
3. Do you have any other comments?
4. Do you wish to raise a Workgroup Consultation Alternative request for the Workgroup to consider?

Specific Workgroup consultation questions

5. Do you agree with the elements of the proposed solution for CMP435? *Please note that the application of these elements may be different to CMP434, therefore please answer the questions in respect to CMP435.*
   Elements 2,4,6,7,15,17 and 18 are not part of the CMP435 Proposal and is only part of the CMP434 Proposal. Element 10 is proposed to be codified within the STC through modification CM095.
   Please provide rationale for your answer and any suggestions for improvement to each element?
6. Are there any elements of the proposed CMP435 solution - as per Q5 - which you believe are not appropriate to include when you consider how to most effectively implement TMO4+ to projects in the existing contracted background (as opposed to the process for new applicants via CMP434)? If yes, please provide supporting justification.
7. In relation to Q6, are there any features which you believe are missing in the proposed CMP435 solution that would more effectively facilitate implementation of TMO4+ to the existing contracted background. If yes, please provide details and justification.
8. Do you believe any groups of projects should be exempt from the scope of CMP435 or from some elements of the proposed solution? If so, please advise on which groups and elements and provide rationale to why.
9. Do you believe that the proposed solution could duly or unduly discriminate against any particular types of projects? If so, do you believe this is justified?

The Workgroup is seeking the views of CUSC Users and other interested parties in relation to the issues noted in this document and specifically in response to the questions above.
Please send your response to cusc.team@nationalgrideso.com using the response pro-forma which can be found on the CMP435 modification page.
In accordance with Governance Rules if you wish to raise a Workgroup Consultation Alternative Request, please fill in the form which you can find at the above link.

If you wish to submit a confidential response, mark the relevant box on your consultation proforma. Confidential responses will be disclosed to the Authority in full but, unless agreed otherwise, will not be shared with the Panel, Workgroup or the industry and may therefore not influence the debate to the same extent as a non-confidential response.

Acronyms, key terms and reference material

Acronym/key term	Meaning
BEGA	Bilateral Embedded Generation Agreement
BELLA	Bilateral Exemptible Large Licence Exempt Generator Agreement
BCA	Bilateral Connection Agreement
BD	Business Days
BSC	Balancing and Settlement Code
CAP	Connections Action Plan
CATO	Competitively Appointed Transmission Owner
CES	Crown Estate Scotland
CfD	Contract For Difference
CMP	CUSC Modification Proposal
CM	Code Modification (STC)
CNDM	Connections Network Design Methodology
CSNP	Centralised Strategic Network Plan
CUSC	Connection and Use of System Code
DCUSA	Distribution Connection and Use of System Agreement
DCO	Development Consent Order
DESNZ	Department for Energy Security and Net Zero
DFTC	Distribution Forecasted Transmission Capacity
DNO	Distribution Network Operator
EBR	Electricity Balancing Regulation
ENA	Electricity Networks Association
ESO	Electricity System Operator
GB	Great Britain
Go-Live Date	The date at which the new process in the legal text goes live, on or after the implementation date
GSP	Grid Supply Point
GW	GigaWatt
iDNO	Independent Distribution Network Operator
INA	Independent Networks Association
HND	Holistic Network Design
LoA	Letter of Authority
M1	Queue Management Milestone M1
M2	Queue Management Milestone M2
M3	Queue Management Milestone M3
M4	Queue Management Milestone M4
M5	Queue Management Milestone M5
M6	Queue Management Milestone M6
M7	Queue Management Milestone M7
M8	Queue Management Milestone M8
MW	MegaWatt

NGED	National Grid Electricity Distribution
NSIP	Nationally Significant Infrastructure Project
OHAs	Offshore Hybrid Assets
QM	Queue Milestone
RFI	Request for Information
SSEP	Strategic Spatial Energy Plan
STC	System Operator Transmission Owner Code
STCP	System Operator Transmission Owner Code Procedures
SQSS	Security and Quality of Supply Standards
TEC	Transmission Entry Capacity
TCE	The Crown Estate
TMO4+	The Reformed Connections Process Proposals
TO	Transmission Owner
TOCA	Transmission Owner Construction Agreement
TOCO	Transmission Owner Construction Offer
T&Cs	Terms and Conditions
UK	United Kingdom

Annexes

Annex	Information
Annex 1	Proposal form
Annex 2	Terms of reference
Annex 3	Urgency letters
Annex 4	Indicative process timeline
Annex 5	CMP435 Workgroup Consultation Response proforma
Annex 6	CMP434 & CMP435 comparison table