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## Connection and Use of System Code (CUSC): Allowing consideration of a different notice period for BSUoS tariff settings (CMP408)

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Decision	The Authority <sup>1</sup> has determined that this modification should be made <sup>2</sup>
Target audience	National Energy System Operator (NESO), Parties to the CUSC, the CUSC Panel and other interested parties
Date of publication:	30 October 2024
Implementation date:	01 April 2025

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### Background

Balancing Services Use of System (BSUoS) charges are the means by which the National Energy System Operator (NESO) recovers the costs associated with balancing the electricity transmission system in Great Britain (GB). These charges are levied on Final Demand consumers in GB<sup>3</sup> based on the amount of energy imported from the transmission network.<sup>4</sup>

On 15 December 2022, we approved CUSC modification CMP361 '*BSUoS Reform: Introduction of an ex ante fixed BSUoS tariff*', Workgroup Alternative CUSC Modification (WACM) 3.<sup>5</sup> This modification implemented the recommendations of the second Balancing Services Task Force to set BSUoS charges as a flat volumetric rate on an ex-ante basis instead of within each half-hour period<sup>6</sup>. As a result, since 1 April 2023, BSUoS charges have been set at a £/MWh rate, nine months in advance, fixed for a six-month period, with the intent to provide predictability and stability for both suppliers and consumers,

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

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

<sup>3</sup> Final Demand is defined as "electricity which is consumed other than for the purposes of generation or export onto the electricity network".

<sup>4</sup> Generator liability for BSUoS charges was removed when the Authority approved CMP308 in April 2022. [https://www.ofgem.gov.uk/sites/default/files/2022-04/CMP308%20Decision\\_0.pdf](https://www.ofgem.gov.uk/sites/default/files/2022-04/CMP308%20Decision_0.pdf)

<sup>5</sup> Authority decision to approve CMP361 and CMP362: <https://www.ofgem.gov.uk/decision/cmp361-and-cmp362-decision>.

<sup>6</sup> [Ofgem response to publication of the final report of the second Balancing Services Use of System \(BSUoS\) Task Force](https://www.ofgem.gov.uk/sites/default/files/docs/2020/12/response_to_the_second_bsuos_task_force_report.pdf)[https://www.ofgem.gov.uk/sites/default/files/docs/2020/12/response\\_to\\_the\\_second\\_bsuos\\_task\\_force\\_report.pdf](https://www.ofgem.gov.uk/sites/default/files/docs/2020/12/response_to_the_second_bsuos_task_force_report.pdf)

which in turn would likely reduce the level of risk premia built into contracts where BSUoS costs are included.

Alongside CMP361, we also approved CMP362 '*BSUoS Reform: Consequential Definition Updates*' to make the necessary definitional updates to Section 11 of the CUSC to support the implementation of CMP361.

As explained in our decision, CMP361 resulted in eight proposed solutions each differentiated by its approach to the various components of the calculations underpinning the fixed BSUoS tariff (e.g., the notice and fixed periods). Some proposals also extended to introducing funding arrangements for NESO to enable it to set a fixed BSUoS tariff in advance without undermining its financial stability in the event of under-recovery, and minimising the risk of mid-period tariff resets.<sup>7</sup> These funding arrangement proposals were intended to supplement the NESO's Working Capital Facility (WCF), £300m of which had been ring-fenced by NESO to cover fixed BSUoS tariffs.<sup>8</sup>

Each proposal under CMP361 had a corresponding 'P-level' being a representation of the proposal's likelihood to provide tariffs that, under normal circumstances once set, would not change, based on the number of years out of 100 that tariffs would be expected to remain certain (i.e., a higher P-level is in principle less likely to lead to a tariff reset during the fixed period than a lower P-level). The P-level also determined the extent of funding arrangements for NESO required to ensure that level of stability.

As outlined in our minded to decision<sup>9</sup>, we initially favoured a three-month notice with a 12-month fixed period. However, the options which adopted this structure under CMP361 also included provision for a BSUoS Fund, effectively a sum derived from surplus collection of BSUoS to create a ringfenced reserve to be utilised in the event of under-recovery through the fixed tariff and where the ESO's WCF had been exhausted. Our analysis indicated that a high level of tariff stability (P-99) under a three-month notice, 12-month fixed solution would have been translated into a BSUoS Fund of approximately

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<sup>7</sup> High risk of mid-period tariff resets is likely to translate into high risk premia passed through to consumers, which goes against the objectives of adopting a fixed BSUoS charges regime.

<sup>8</sup> The Working Capital Facility is a financial reserve and buffer to cover short-term obligations. The WCF ensures that NESO can continue to meet financial obligations without the risk of cash flow shortages. In this case, it provides liquidity to cover short-term under-recovery of BSUoS charges, helping to mitigate the risk of tariff resets by ensuring NESO can meet the costs to balance the system (and order costs covered through BSUoS) even in periods of market volatility.

<sup>9</sup> [CMP361/362 – Minded-to decision and draft impact assessment](#)

£2 billion at the time, which would represent and an additional annual cost to consumers of £0.4 billion (if recovered over five years) or £1 billion (if recovered over two years).<sup>10</sup> We concluded that this level of cost was unacceptable on the basis that it would increase consumer costs significantly, and therefore considered that approval of such options (i.e. those with three months' notice and 12-month fixed period) would be inconsistent with our Principal Objective to protect the interests of consumers.

As a result, we approved WACM3, which provided for a nine-month notice period and 6-month fixed period, without a BSUoS Fund, which represented a P-77. Our decision concluded that this option would balance the need for improved predictability and stability of tariffs over longer durations, compared to previous half-hour settlements, without the financial burden on consumers. This tariff structure also aligns with the Balancing Services Task Force's recommendation that the total notice and fixed period length should be around 14 to 15 months, allowing suppliers to benefit from the predictability and stability to plan their pricing strategic more efficiently.

However, the tariff structure we approved in CMP361 & CMP362 requires NESO to forecast volatile costs 9 months ahead of the tariff implementation, instead of the 3 months we initially intended to approve. In our CMP361 decision letter, we noted that a longer notice period likely impacts NESO's ability to produce more accurate forecasts, which may increase their cash flow risks. We also noted: "Should further CUSC Modification Proposals be brought forward, we would encourage industry to consider the appropriate Notice Period. As per our minded-to decision, we continue to believe that a 3-month Notice Period strikes the appropriate balance between providing Suppliers with sufficient advance notice of charges, and mitigating the risk of inaccuracy in a forecast set in advance of the timeframe to which it relates".

### **The modification proposal**

On 17 January 2023, NESO (the 'Proposer') raised CMP408 (the 'Original Proposal') seeking to amend Section 14 of the CUSC to reduce the notice period for setting BSUoS tariffs from nine months to three months. This intended to enhance the accuracy of

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<sup>10</sup> At the time of decision, this larger BSUoS Fund size needed to secure tariff stability was much higher than those provided by the BSUoS Task Force analysis, given the exceptional cost volatility faced particularly during the 2022 energy crisis.

BSUoS cost forecasts and reduce the risk of mid-period tariff resets and the associated risk premia passed through to consumers.

The Proposer considers that CMP408 would improve the predictability and stability of BSUoS charges, thereby benefitting suppliers and consumers through more accurate cost forecasting. This modification seeks to build on the foundation established by the decisions made in CMP361 & CMP362.

The Proposer considers that the existing nine-month notice period for setting BSUoS tariffs has proven inadequate in light of the increased volatility and higher costs of BSUoS since 2021. The Proposer asserts that the nine-month notice period hampers the accuracy of cost forecasts, increasing the likelihood of mid-period tariff resets, which, in turn, necessitate higher risk premia to mitigate the uncertainty, ultimately inflating costs for consumers. CMP408 proposes to address this issue by reducing the notice period from nine months to three months, allowing for the use of more current data in cost forecasts. This change is expected to enhance forecasting accuracy and reduce the likelihood of mid-period tariff resets, thereby decreasing the risk premia that suppliers incorporate into their pricing.

The Proposer considers that the Original Proposal would be positive in terms of Applicable CUSC Charging Objectives (ACOs) (a), (b), (c), and (e). They argue that the changes would lead to more efficient tariff-setting processes, enhance competition in the electricity market, and better align cost recovery with actual system usage, all of which would ultimately benefit consumers and market participants.

## **Discussion of alternatives**

CMP408 resulted in two Workgroup Alternative Requests being raised alongside the Original Proposal.

### **Workgroup Alternative Request 1:**

This proposed an alternative to the Original Proposal of a 3-month notice period combined with a 12-month fixed period. This structure maintained a 15-month combined notice and fixed period as recommended by the second BSUoS Taskforce. The approach aimed to strike a balance between providing sufficient notice to market participants and improving the accuracy of cost forecasts.

### **Workgroup Alternative Request 2:**

This proposed an alternative to the Original Proposal of a 3-month notice period along with a 12-month fixed period but also included a split tariff structure with distinct spring-summer (1 April to 30 September inclusive) and autumn-winter (1 October to 31 March inclusive) tariffs. This approach was intended to address seasonal variations in BSUoS costs and better manage the NESO's WCF by mitigating the risk of under-recovery during fixed periods, thus reducing the probability of tariff resets.

These alternatives were developed through discussions and feedback during the Workgroup consultations, reflecting the need for a more dynamic and accurate BSUoS tariff setting process. There was significant support from the Workgroup for these two alternatives, including for both alternatives to become Workgroup Alternative CUSC Modifications (WACMs).

However, Paragraph 8.16.2 of Section 8 (CUSC Modification) of the CUSC states that a proposal to modify the CUSC Charging Methodologies cannot modify any other section of the CUSC other than section 14 (Charging Methodologies). Both Workgroup Alternatives proposed to amend section 11 (Interpretation and Definitions), and as such, the alternatives could not progress to become WACMs to be considered alongside the Original Proposal and were therefore withdrawn.

On that basis, Workgroup Alternative 1 and Workgroup Alternative 2 from CMP408 were raised as two consequential modifications. Ultimately, these evolved into the Original Proposal and WACM1 of CMP415.<sup>11</sup> A separate decision to approve WACM1 of CMP415 has also been published today.

### **CUSC Panel<sup>12</sup> recommendation**

The CUSC Panel (the 'Panel') met on 29 September 2023 to conduct their recommendation vote. The Panel recommended by majority that the Original Proposal does not better facilitate the Applicable CUSC Charging Objectives (ACOs) when

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<sup>11</sup> Documentation relating to CMP415 can be found on the NESO website here: <https://www.nationalgrideso.com/industry-information/codes/cusc/modifications/cmp415-amending-fixed-price-period-6-12-months>.

<sup>12</sup> The CUSC Panel is established and constituted from time to time pursuant to and in accordance with section 8 of the CUSC.

compared to the existing provisions of the CUSC (the 'Baseline'). The main reason for this was the concern that reducing the notice period from the existing nine months to three months, without a corresponding increase in the fixed period, could reduce cost certainty and increase risk premia in supply contracts, therefore negatively impacting competition amongst suppliers and increasing consumer costs. The Panel considered that increased uncertainty could ultimately drive costs up for consumers.

However, some Panel members indicated that if further changes were made to allow the fixed period to be increased (for example, from 6 months to 12 months), the Proposal could potentially better facilitate the ACOs by improving forecast accuracy and reducing the likelihood of mid-period tariff resets.

## **Our decision**

We have considered the issues raised by CMP408 and the Final Modification Report (FMR) dated 13 October 2023. We have considered and taken into account the responses to the Workgroup Consultation and the Code Administrator Consultation, which were attached to the FMR.<sup>13</sup> We have also considered the votes of the Workgroup and the CUSC Panel. We have concluded that:

- implementation of the Original Proposal will better facilitate the achievement of the ACOs;<sup>14</sup> and
- directing that the Original Proposal be made is consistent with our principal objective<sup>15</sup> and statutory duties.<sup>16</sup>

## **Reasons for our decision**

Our decision to approve CMP408 is based on several key considerations aimed at enhancing the accuracy of setting the tariff and stability of BSUoS charges, thereby benefitting both suppliers and end consumers.

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<sup>13</sup> Final modification report CMP408: [download \(nationalgrideso.com\)](https://www.ofgem.gov.uk/sites/default/files/2024-09/Complete_ESO_Licensing_Direction_and_Licence_Terms_and_Conditions_decision_e-signed_and_dated_FINAL.pdf)

<sup>14</sup> As set out in Standard Condition E2 of the Electricity System Operator Licence. Please see: [https://www.ofgem.gov.uk/sites/default/files/2024-09/Complete\\_ESO\\_Licensing\\_Direction\\_and\\_Licence\\_Terms\\_and\\_Conditions\\_decision\\_e-signed\\_and\\_dated\\_FINAL.pdf](https://www.ofgem.gov.uk/sites/default/files/2024-09/Complete_ESO_Licensing_Direction_and_Licence_Terms_and_Conditions_decision_e-signed_and_dated_FINAL.pdf)

<sup>15</sup> Our principal objective is to protect the interests of existing and future consumers.

<sup>16</sup> The Authority's statutory duties are wider than matters which the Panel must take into consideration and are detailed mainly in the Electricity Act 1989 as amended.

Market conditions have evolved since we approved CMP361 & CMP362 during the 2022 energy crisis. In 2024, NESO's WCF ring-fenced for BSUoS (£300m) now represents significantly more secure tariffs if combined with any of the notice and fixed period options being considered in CMP361 & CMP362 (approximately P-99 without a BSUoS Fund for all options) when compared to 2022 (approximately P-77 for the options without a BSUoS Fund). Given recent market developments, we agree with the views that the existing 9-month notice period for setting BSUoS tariffs is no longer appropriate. We consider the extended notice period has made forecasting more difficult than a shorter period, which increases the likelihood of inaccuracies. This impacts NESO's ability to manage cash flow risks as the misalignment of BSUoS charges with actual costs leads to increased chances of under- or over-recovery, increases the likelihood of tariff resets and ultimately likely increasing associated risk premia paid by end consumers. By reducing the notice period to 3 months, NESO would be able to leverage more recent and accurate data, which we consider is likely to improve forecast accuracy for BSUoS tariffs, and therefore minimises the likelihood of mid-period tariff resets.

The analysis in Annex 3 of the FMR provides evidence that a 3-month notice period improves the accuracy of BSUoS forecasting. This is demonstrated by a reduction in the Mean Absolute Error (MAE) from £132 million under a 9-month notice period to £90 million with a 3-month notice period. We believe that CMP408 provides a more stable and predictable financial environment that is likely to benefit consumers.

We consider the Original Proposal will better facilitate ACOs (a) and (b) and has a neutral impact on ACOs (c), (d) and (e). We have decided to accept CMP408 for the reasons set out below.

***(a) That compliance with the use of system charging methodology facilitates effective competition in the generation and supply of electricity and (so far as is consistent therewith) facilitates competition in the sale, distribution and purchase of electricity;***

The Proposer asserts that CMP408 better facilitates ACO (a) as a shorter notice period would allow for more accurate BSUoS cost forecasts and tariff setting which will enhance both the accuracy and stability of BSUoS charges, and in turn support effective competition in the supply of electricity. The Proposer considers this improvement in

forecast accuracy to be critical for suppliers as it allows them to set prices more competitively without needing to include higher risk premiums which would be passed on to end consumers to account for potential cost fluctuations over the current 9-month period.

The Workgroup and Panel members had mixed views on whether CMP408 better facilitates ACO (a). The majority of Panel members were concerned that reducing the notice period without extending the fixed period would increase suppliers' risk, likely leading to higher risk premiums and costs for consumers, which would therefore not support competition. However, some Panel and Workgroup members acknowledged that a shorter notice period could improve forecasting accuracy, but felt this benefit might not outweigh the increased risks. A number of Panel members suggested that if CMP408 were combined with CMP415, which proposes a longer fixed period, it could potentially better facilitate competition by reducing the likelihood for mid-period tariff resets to be required.

#### *Our view*

We consider CMP408 will better facilitate ACO (a).

The current nine-month notice period has an inherent risk associated with the level of accuracy in terms of forecasting<sup>17</sup> due to the extended time between the forecast and tariffs being set and the actual cost period being realised. The expected improvement in forecast accuracy through the introduction of CMP408 should minimise the likelihood for mid-period tariff resets, and the risk of sudden cost changes associated with it. We expect this will reduce the need for suppliers to incorporate higher risk premia into their pricing. With lower risk premia suppliers can offer more competitive prices, enhancing market competition. We consider that reducing the notice period to three months, in combination with extending the fixed period, strikes the appropriate balance between providing sufficient notice of charges to suppliers, and mitigating the risk of inaccuracy in a forecast set in advance of the timeframe to which it relates.

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<sup>17</sup> The costs NESO incurs to balance the system are volatile and increasingly challenging to predict. This is due to factors like weather-related variability in intermittent renewable energy sources, sudden changes in demand, and interactions with whole energy prices influenced i.e. by fuel costs and global energy markets.



Therefore, we conclude that CMP408 would better facilitate achievement of ACO (a).

***(b) That compliance with the use of system charging methodology results in charges which reflect, as far as is reasonably practicable, the costs (excluding any payments between transmission licensees which are made under and accordance with the STC) incurred by transmission licensees in their transmission businesses and which are compatible with standard licence condition C26 requirements of a connect and manage connection);***

The Proposer states that CMP408 will better facilitate ACO (b) by ensuring that BSUoS charges more accurately reflect the costs incurred by NESO in managing the electricity system. It is suggested that a shorter notice period allows the forecasts to be based on more recent and accurate data, which will reduce the discrepancies between forecast and actual costs, and more accurately reflect the true cost of system balancing. The Proposer believes that by reducing the notice period, CMP408 enhances the accuracy of cost recovery, ensuring that the charges imposed are more reflective of the actual costs incurred during the charging period.

The Workgroup had mixed views on whether CMP408 better facilitates ACO (b). A number of Workgroup members felt that a shorter notice period would improve cost reflectivity by allowing forecasts to be based on more recent data, leading to more accurate charges. However, other Workgroup members raised concerns that this reduction in the notice period without extending the fixed period could lead to higher risk premia, especially in a volatile market, potentially increasing costs for consumers. The Panel was similarly divided, with the majority of members viewing the Original Proposal as neutral against ACO (b) unless CMP415 was implemented alongside it. A number of Panel members noted that while a shorter notice period could theoretically lead to more accurate charges, the potential for mid-period tariff resets and the associated increase in supplier risk premiums could offset any benefits, and as such would not significantly better facilitate ACO (b).

#### *Our view*

We consider that CMP408 better facilitates Applicable CUSC Objective (b).

By reducing the notice period for setting BSUoS tariffs from nine months to three months, CMP408 allows for the use of more recent and accurate data in cost forecasts. We expect this shorter notice period will result in BSUoS charges that are more closely

aligned with the actual costs incurred by NESO in managing the electricity system. This alignment promotes a charging methodology that is more reflective to the actual cost dynamics of the electricity transmission system.

The Panel raised concerns about increased volatility, highlighting that CMP408 shifts the responsibility for managing volatility from NESO to suppliers, who are less equipped to handle it. It was noted that CMP408, in isolation, could increase supplier uncertainty and the need for higher risk premia. Both Panel members and the Workgroup expressed that a shorter notice period without a longer fixed period could increase financial risk for suppliers. However, we are implementing CMP408 alongside WACM1 of CMP415. This combination provides stability for suppliers while increasing the likelihood that tariffs are reflective of current costs.

Given these factors, we conclude that CMP408 facilitates achievement of ACO (b).

### **Future market conditions**

As stated in both the CMP408 & CMP415 decision letters, approved changes to the fixed BSUoS tariff structure are preferable to the Baseline because current market conditions have evolved since CMP361 & CMP362 decisions. However, future market developments could introduce similar levels of uncertainty as those experienced by industry in 2022. In such cases, it will be open to parties to raise CUSC modification proposals, which we would evaluate based on their merits.

### **Fixed BSUOS tariff reset mechanisms**

The tariff stability anticipated from the arrangements approved in CMP408 & CMP415 should be complemented by clear tariff reset mechanisms adopted by NESO. We expect NESO to incorporate these mechanisms into the CUSC to provide greater certainty for all parties.

### **Implementation Date**

The implementation date for CMP408 and WACM1 of CMP415 is set for 1 April 2025, marking the start of the new charging year. However, this does not mean that BSUoS

final tariffs published under the current 9-month notice and 6-month fixed periods will be reset or replaced immediately. The existing final tariffs (Fixed BSUoS Tariffs 4 and 5<sup>18</sup>) will continue to apply and run their full course, as well as the final tariff scheduled to be published in December 2024 (Fixed BSUoS Tariff 6), until their 6-month fixed period ends in April 2026. In December 2025, NESO will publish the first seasonal tariffs (Fixed BSUoS Tariffs 7 and 8) under the new arrangements, 3 months before Fixed BSUoS Tariff 6 ends, for a 12-month period. Subsequent tariffs will then be published every December.

### **Decision notice**

In accordance with Standard Condition E2 of the Electricity System Operator Licence, the Authority hereby directs that modification proposal CUSC CMP408: *Allowing consideration of a different notice period for BSUoS tariff settings* is made.

**Pedro Arcain**

**Head of Electricity Network Charging, Energy Systems Management & Security**

Signed on behalf of the Authority and authorised for that purpose.

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<sup>18</sup> [BSUoS Fixed Tariff Final Tariff 5 \(Apr 2025-Sep 2025\) Draft Tariff 6 \(Oct 2025-Mar 2026\)](#)