

Workgroup Consultation Response Proforma

CMP435: Application of Gate 2 Criteria to existing contracted background

Industry parties are invited to respond to this consultation expressing their views and supplying the rationale for those views, particularly in respect of any specific questions detailed below.

Please send your responses to cusc.team@nationalgrideso.com by **5pm on 06 August 2024**. Please note that any responses received after the deadline or sent to a different email address may not receive due consideration.

If you have any queries on the content of this consultation, please contact cusc.team@nationalgrideso.com

Respondent details	Please enter your details	
Respondent name:	Alex Ikonic	
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Which best describes your organisation?	<input type="checkbox"/> Consumer body <input type="checkbox"/> Demand <input type="checkbox"/> Distribution Network <input type="checkbox"/> Operator <input checked="" type="checkbox"/> Generator <input type="checkbox"/> Industry body <input type="checkbox"/> Interconnector	<input type="checkbox"/> Storage <input type="checkbox"/> Supplier <input type="checkbox"/> System Operator <input type="checkbox"/> Transmission Owner <input type="checkbox"/> Virtual Lead Party <input type="checkbox"/> Other

I wish my response to be:

(Please mark the relevant box)

☒ **Non-Confidential** (this will be shared with industry and the Panel for further consideration)

☐ **Confidential** (this will be disclosed to the Authority in full but, unless specified, will not be shared with the Workgroup, Panel or the industry for further consideration)

For reference the Applicable CUSC (non-charging) Objectives are:

- The efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence;
- 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;
- Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency *; and

- d) *Promoting efficiency in the implementation and administration of the CUSC arrangements.*

*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 questions		
1	Do you believe that the Original Proposal better facilitates the Applicable Objectives?	<p>Mark the Objectives which you believe the Original solution better facilitates:</p> <p>Original <input type="checkbox"/>A <input type="checkbox"/>B <input type="checkbox"/>C <input type="checkbox"/>D</p> <p>Ørsted strongly supports the concept of CMP435 and believes it is key for Connections Reform to be able to deliver its full impact and help the UK achieve Net Zero targets.</p> <p>However, the proposal still holds significant uncertainty and there remains a lack of detail associated with some elements, which risks undermining investor confidence. Without clarity on these details, it's also difficult to form a view on whether it does better facilitate the applicable objectives.</p> <p>The proposal is also heavily reliant on other workstreams (for example Data Provision, CNDM, Gate 2 Criteria Methodology and ENA-led work), which, if not developed in a robust or transparent way, or within the same timeframes, poses a significant risk to the merits of CMP435.</p>
2	Do you support the proposed implementation approach? (See page- 57-58)	<p><input type="checkbox"/>Yes <input checked="" type="checkbox"/>No</p> <p>Whilst we appreciate the need to move the reform work at pace, in Ørsted's view more time is needed to ensure that a reasonable and robust process is put in place. A 1 January 2025 go-live date may be too tight to implement a well-functioning process which would ensure equitable treatment between different types of users. The process, as it currently stands, is proposed to proceed based on numerous assumptions which are untested. It would therefore be helpful to consider potential remedial plans following go-live, in the event that practical implementation has unforeseen challenges.</p> <p>In addition, it is worth considering contingency options, including a potential alternative implementation approach of staged reform. In this case, the first exercise could be to 'clean up' the existing queue (allowing the generation and demand background to be 'set') before implementing the new process.</p>
3	Do you have any other comments?	No.

4	Do you wish to raise a Workgroup Consultation Alternative Request for the Workgroup to consider?	<input type="checkbox"/> Yes (the request form can be found in the Workgroup Consultation Section) <input checked="" type="checkbox"/> No
Click or tap here to enter text.		

Specific Workgroup Consultation questions

5	<p>Do you agree with the elements of the proposed solution for CMP435? <i>Please note that the application of these elements may be different to CMP434, therefore please answer the questions in respect to CMP435.</i></p> <p>Elements 2,4,6,7,12,15,17 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.</p> <p>Please provide rationale for your answer and any suggestions for improvement to each element?</p>	
Element 1: Proposed Authority approved methodologies and ESO guidance (see Page 8-10,29)		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>We believe there should be a higher level of codification for the three proposed methodologies. Although we understand that ESO intend for these methodologies to go through an approval process with Ofgem in line with a new transmission license obligation, we note this process (and this obligation) does not currently exist. It is unknown whether it would be in place in time for the go-live date, as well as:</p> <ul style="list-style-type: none"> ▪ Associated timelines; ▪ How it would function; and ▪ to which extent it would take on board feedback from industry following a consultation - both in the first instance, and on an enduring basis. <p>The detail these methodologies hold can fundamentally change project development risk levels, and there remains an outstanding risk that the ESO could modify these relatively easily/unilaterally. We are very concerned that this could damage investor confidence, leading to higher project costs which would be borne by consumers. In Ørsted's view it is not suitable to hold these elements in methodology documents and would strongly urge the ESO to codify these elements.</p> <p>At an absolute minimum, a requirement on the network operator should be codified, requiring them to consult – and fully account for industry feedback – before <i>any</i> change to methodologies is carried out.</p>		

Element 3: Clarifying which projects go through the Primary Process (See pages 10-11,29-31)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<p>We agree that CMP435 should be applied to the identified types of projects in the table, but we believe there should be some nuances in how it is applied to different parties (especially where requirements are based on assumptions that certain activities should have been done by the developer in parallel).</p>	
Element 5: Clarifying any Primary Process differences for customer groups (See pages 11-12,32)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>We have significant concerns regarding the treatment of embedded projects under CMP435. It is imperative that processes for DNO's to notify the ESO, reorder the queue at distribution level, and re-allocate costs (where required) are in place and well communicated to industry prior to the go-live date. We understand some of these are being separately developed by ENA, but that some may need (as yet unidentified) DCUSA changes.</p> <p>These timelines must line up with those proposed for CMP435. Otherwise, embedded projects are at a significant risk of being disadvantaged. We believe further discussions are needed within the workgroup, including an update from ENA representatives to discuss latest status and current thinking for this to determine the best way forward.</p> <p>As such, we cannot support this element in its current form.</p>	
Element 8: Longstop Date for Gate 1 Agreements (See pages 12-13, 32-33)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<p>We agree it is appropriate to start the clock on the longstop date from the time an offer becomes a Gate 1 offer. However, we note that we have wider concerns with the concept of a longstop date which we have detailed in our response to CMP434.</p>	
Element 9: Project Designation (See pages 14-15, 33-34)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>We have concerns that the proposed criteria are too broad, and that they would need to be much more tightly defined. It is imperative that this process is transparent, open and fair.</p> <p>We believe further justification is required from the ESO as to why this element is required under CMP435.</p> <p>In line with our responses to Q5 Element 1, we do not believe it is appropriate to hold these in a Methodology document, and that these should be codified.</p>	
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 (See pages 16-21, 34-39)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>Ørsted is supportive of the proposed Gate 2 criteria, contingent on significant improvements in quality and availability of pre-application data (allowing</p>	

<p>developers to undertake feasibility assessments with a reasonable degree of confidence).</p> <p>However, we strongly believe that the Gate 2 definition should be codified. Retaining the definition in a methodology document could undermine investor confidence as it could lead to the situation of the ESO unilaterally changing the definition so projects will fall in or out of Gate 2 (even after investment decisions have been made).</p> <p>In terms of implementation, we would suggest some flexibility could be deployed to CMP435 projects (perhaps on a time limited basis); e.g. a requirement to secure 70-80% of land rather than 100% by 31st January, or to allow projects to reduce their TEC or split out their capacity/technology into stages rather than reverting the whole offer to Gate 1 if they have not secured Options for 100% of the land required.</p> <p>In addition, we note that for offshore developments, a number of projects that form part of the HND/HNDFUE may have only recently had their connection points confirmed and hence would only have been able to start the consenting process then. Although they could meet Gate 2, these projects may not be able to meet the forward-looking milestones as per the table proposed.</p> <p>We agree that the minimum length for Option should only start to apply following the Ofgem decision.</p> <p><i>For projects that meet Gate 2/are seeking advancement:</i></p> <p>We have more serious concerns regarding applying the Gate 2 ongoing compliance aspects to CMP435 projects as they are currently proposed, therefore, we cannot support this Element as a whole. These projects, which may be in various stages of the development process, will not have had foresight of additional activities they would (now) have been expected to do, including: formalising the Red Line Boundary (RLB) to much stricter restrictions than under the status quo, or potentially undertaking survey/pre-planning works at a much earlier stage than they would have done under CMP376.</p> <p>These obligations, when applied retrospectively, could put these projects at a disadvantage. We would propose mitigation measures such as:</p> <ul style="list-style-type: none"> ▪ Giving such projects a "buffer" period to allow them to meet Gate 2 ongoing compliance requirements where they are more onerous than today. ▪ Not applying such obligations to those where the connection date is within 5 years (as CMP376 milestones may be a more appropriate mechanism to remove these from the queue if needed). <p>Notwithstanding this, we do have other concerns with both of the Gate 2 ongoing obligations which we have detailed in our response to CMP 434.</p>	
<p>Element 13: Gate 2 Criteria Evidence Assessment (See pages 22-23, 39-40)</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>No comment.</p>	

Element 14: Gate 2 Offer and Project Site Location Change (See pages 23-24, 40-41)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
No comment.	
Element 16: Introducing the proposed Connections Network Design Methodology (CNDM) (See pages 24-25, 41-42)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>Although we agree with the principle of having a CNDM, we do not feel it is appropriate for the CNDM to be in a methodology document.</p> <p>We believe the CNDM is a crucial part of Connections Reform, given it is proposed to house aspects such as allocation of queue position (including for embedded customers), capacity re-allocation, treatment of interactivity and others. We understand that the ESO does not intend to discuss this in further workgroup meetings, but we believe the outstanding unknowns and uncertainties associated with these aspects means we cannot support this element in its current form.</p> <p>These details can fundamentally change project development risk levels so it is critical they are clearly understood by the industry and have a clear governance process. Without understanding these details, it is difficult to judge if the proposal would be better or worse than the baseline.</p> <p>Although we understand the ESO intend for these methodologies to go through an approval process with Ofgem in line with a new transmission license obligation, this does not currently exist nor is it known whether it could be in place by the go-live date.</p> <p>With the restructuring of the queue, we believe further discussions are needed with TO's on how changes would impact their investment programmes. For example, if a project (which was progressing in line with old rules and was on track to meet its Connection Date) was dropped back to Gate 1, it is unclear if the TO would cease work on any associated reinforcements, as the shift in queue position may remove the "signal" for investment. It is also unclear whether a project in this scenario would then incur delay charges, or face delays when it comes to Gate 2.</p>	
Element 19: Contractual changes (See pages 26-28, 43-46)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<p>We believe the timelines associated with the proposed contractual changes need to be set out more clearly, including but not limited to:</p> <ul style="list-style-type: none"> Confirmation of deadlines of when Users must submit evidence by and when they expect further engagement from the ESO / TO including the Gate 2 Modification offer, including for embedded generators. When ESO expects to develop the self-certification letter and share with wider industry. When ESO will clarify Gate 2 evidence requirements. Time frame for ESO to undertake checks of Gate 2 evidence e.g. 10 working days following submission. 	
Element 20: Cut Over arrangements (See page 28, 47)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
No comment.	

6	<p>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)?</p> <p>If yes, please provide supporting justification.</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<p>Project designation – see our response to Q5 Element 9 Gate 2 ongoing compliance – see our response to Q5 Element 12</p>		
7	<p>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.</p> <p>If yes, please provide details and justification.</p> <p>Ørsted Response</p> <p>We believe the following elements should be part of the CMP435 solution:</p> <p>1. Cost refund/re-allocation</p> <p>We understand that the ESO must first identify the scale of the problem, but as it is currently written, this acts as an open-ended risk to developers and investors. Costs can include capital contributions for connection assets, but also one-off works and Third-Party Works. With the queue being restructured, projects which have made payments may no longer be able to use those assets if other projects 'leapfrog' them in the queue. We believe the ESO should publish a minded-to paper, with Ofgem input if required, on how they propose such projects to be treated, along with a timeline of raising such a modification(s).</p> <p>2. Significant ModApps</p> <p>In general, as per our response to CMP434, we believe further work is needed on this element including a wider industry consultation. However, Significant ModApps should also be considered in more detail in the context of CMP435 – particularly with regards to location or technology changes, or capacity reductions.</p> <p>3. The timely publication (and significantly improved quality / consistency / granularity) of pre-app data</p> <p>Data tools e.g. through the Connections 360 tool, are critical to the success of Connections Reform. We are concerned that most users seeking advancement or other improvements to their grid contract under CMP435 will not have access to any data to help inform their applications.</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

8	<p>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.</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>We do not believe any groups of projects should be exempt entirely from CMP435, but we believe there should be more nuance in how it is applied than is currently proposed. Applying blanket rules to all parties may be more likely to lead to legal challenges – particularly where projects have been progressing in line with the old rules and made investments (which ESO confirmed would <u>not</u> be refunded under CMP435) but would now be reverted to a Gate 1 offer i.e. kicked out of the queue.</p> <p>For example, under the proposal, it is possible for a live DCO project - which is actively progressing but previously had no requirement to secure land at their stage - would be put into Gate 1, with uncertainty of a future grid position.</p> <p>We believe deploying measures such as the below may be more suitable:</p> <ul style="list-style-type: none"> ▪ Giving such projects a "buffer" period to allow them to meet Gate 2 ongoing compliance requirements where they are more onerous than today. ▪ Allowing projects to split out their connection into a staged connection (either capacity or technology) ▪ Not applying such CMP435 to those where the connection date is within 5 years (as CMP376 milestones may be a more appropriate mechanism to remove these from the queue). 		
9	<p>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?</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<p>We believe the proposal could unduly discriminate against embedded generators if the corresponding DNO workstreams are not in place (and well communicated and understood by industry) prior to the go-live date. This includes but is not limited to:</p> <ul style="list-style-type: none"> ▪ Potential DCUSA mods; ▪ DNO rules for re-ordering the queue; ▪ Cost re-allocation; and ▪ Process for DNO's to notify ESO of projects reaching Gate 2 and how their associated queue positions are set. <p>In our view, the CMP435 exercise should not commence until after these have been finalised.</p>		