

## CMP435: Application of Gate 2 Criteria to existing contracted background

### Workgroup Terms of Reference and Membership

### Responsibilities

1. The Workgroup is responsible for assisting the CUSC Modification Panel in the evaluation of CUSC Modification Proposal **CMP435: Application of Gate 2 Criteria to existing contracted background** raised by **the ESO** at the Modifications Panel meeting on **26 April 2024**. The proposal must be evaluated to consider whether it better facilitates achievement of the Applicable CUSC Objectives.

### Applicable CUSC (charging) Objectives

- a) The efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence;
- 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;
- c) 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.

2. It should be noted that additional provisions apply where it is proposed to modify the CUSC Modification provisions, and generally, reference should be made to the Transmission Licence for the full definition of the term.

### Scope of work

3. The Workgroup must consider the issues raised by the Modification Proposal and consider if the proposal identified better facilitates achievement of the Applicable CUSC Objectives.
4. In addition, the Workgroup shall consider and report on the following specific issues:

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Workgroup Term of Reference	Location in Workgroup Report (to be completed at Workgroup Report stage)
a) Consider EBR implications	<p><b>Legal Text Discussions</b></p> <p><b>Annex 7 Legal Text</b></p>
b) Consider the scope of work identified and whether this is achievable within the timeframe outlined in the Ofgem Urgency decision letter.	<p><b>Element 3</b> (p.29-31)</p> <p>Identified scope of work and exemptions (p.30-31)</p> <p><b>Consideration of topics which are not directly part of/are no longer part of Proposal:</b></p> <p>Timeline Updates (p.83-84)</p>
c) Consider changes to the contractual arrangements for those existing contracted parties that have not met the Gate 2 criteria by the Go-Live Date of 1 January 2025.	<p><b>Element 19</b> (p.49-65):</p> <p>Contractual changes and timings of process (p.54)</p> <p>Clarity that if Gate 2 is not met or Gate 2 offer is not accepted, project will be given Gate 1 and opportunity to terminate (p.58)</p> <p>Process to change an existing agreement to Gate 1 status (p.62)</p> <p><b>Legal Text Discussions</b> (p.54, 58, 63-64)</p>
d) Review the transitional arrangements in relation to changes to the contractual arrangements and any associated costs.	<p><b>Element 19</b> (p.49-65):</p> <p>Identification of four main groups of existing projects (p.49-50)</p> <p>Contractual changes for transitional/cut over projects (p.53)</p> <p><b>Element 20</b> (p.65-66)</p> <p><b>Consideration of topics which are not directly part of/are no longer part of Proposal:</b></p> <p>Transitional Arrangements (p.79-81)</p>
e) Consider the application of the User Commitment methodology to projects in Gate 1 and Gate 2 and the transitional arrangements that may be required for existing connections.	<p><b>Element 19</b> (p.49-65):</p> <p>Securities and liabilities: Compensation/reconciliation arrangements (p.51)</p> <p>Securities and liabilities: relating to advancement (p.52)</p> <p>Process to change an existing agreement to Gate 1 status (p.62)</p>

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<p>f) Consider how any new financial instruments associated with connections are cost reflective and predictable.</p>	<p><b>Consideration of topics which are not directly part of/are no longer part of Proposal:</b></p> <p>Gate 1 and Gate 2 Financial Instrument (p.82-83)</p>
<p>g) Consider how the solution(s) conforms with the statutory rights in respect of terms and conditions for connection.</p>	<p><b>Element 19</b> (p.49-65)</p> <p>Legal compliance of the approach (p.64-65)</p> <p><b>Legal Text Discussions</b></p>
<p>h) Consider the impact of NESO designation of Gate 2 status, and ways to make this non-discriminatory.</p>	<p><b>Element 9</b> (p.35-36)</p>
<p>i) Consider the relevant content of Annex B of the Ofgem <a href="#">Open letter on connections reform publication</a>.</p>	<p>See Table below</p>

Annex B of Ofgem Open Letter reference points	Information provided to the WG for consideration (page numbers refer to WG report)
<p>1. To ensure this proposal has a clear statement of forecasted benefits in line with the outcomes of the CAP (which are repeated above).</p>	<ul style="list-style-type: none"> <li>Quantitative assessment provided to the WG in relation to the RFI data and analysis (p.86)</li> </ul>
<p>2. To identify and understand the risks associated with this proposal (including legal risks) and develop effective mitigations as far as possible.</p>	<ul style="list-style-type: none"> <li>Process risks have been considered throughout Workgroup discussions (p.34, 37, 41, 46, 50, 61)</li> <li>Methodology concerns (p.28-29)</li> </ul>
<p>3. To evidence through a clear impact assessment that the proposal will achieve forecasted benefits.</p>	<ul style="list-style-type: none"> <li>Quantitative assessment provided to the WG in relation to the RFI data and analysis (p.86)</li> <li>Impact Assessment and RFI (p.86)</li> </ul>
<p>4. To ensure the details of the proposal are developed through consultation with network owners, wider industry and connection customers.</p>	<ul style="list-style-type: none"> <li>Consultations previous and planned via the code modification process:</li> </ul>

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	<ul style="list-style-type: none"> <li>• Workgroup Consultation summary (p.26-27, Annex 6)</li> <li>• Code Administrator Consultation</li> </ul>
<p><b>5.</b> To identify and recommend any regulatory and legislative changes required to enable or mitigate risks associated with the proposal.</p>	<ul style="list-style-type: none"> <li>• TMO4+ suite of code modifications CMP434/CMP435/CM095</li> <li>• NESO has provided high-level views on required licence changes to Ofgem to inform their thinking on the potential licence changes within the code change process.</li> <li>• Licence changes and legislative changes discussion (p.65, 73)</li> </ul>
<p><b>6.</b> To follow (and share) a robust options development and implementation plan, in line with the expectations set out in the Chancellor’s statement, whilst ensuring appropriate consultation, consideration and evidence-based decision making, alongside time for regulatory changes (i.e. codes and licences) and time for process implementation and operational go-live.</p>	<ul style="list-style-type: none"> <li>• The revised code modification plans were submitted to Ofgem on 09/09 following engagement with code panels.</li> <li>• TMO4+ updates provided within the code change process</li> <li>• Alternative Requests and WACM development (p.67-72)</li> </ul>
<p><b>7.</b> To consider what contingency options to bring forward at pace if this proposal does not look to deliver: a. the expected timeframe – 1 Jan 2025, as per Chancellor announcement; and/or b. the expected benefits – we expect the ESO to monitor the proposal as it develops to assess whether it will go far enough to meet the desired objectives – and if not, to recommend further measures to meet these.</p>	<ul style="list-style-type: none"> <li>• This was considered a wider issue than the code change process and therefore not relevant for consideration within the code modification.</li> </ul>
<p><b>8.</b> To consider how to pragmatically prepare for the reforms and manage the expectations of existing and new customers in advance of the implementation date, particularly the connection offer terms customers hold or expect to hold. We anticipate that ESO will engage with customers appropriately, communicating at the right time about all the changes they will experience as result of this process change.</p>	<ul style="list-style-type: none"> <li>• This was considered to be wider than the code change process although discussions have taken place as part of legal text, implementation approach and consideration of Methodologies.</li> </ul>

5. The Workgroup is responsible for the formulation and evaluation of any Workgroup Alternative CUSC Modifications (WACMs) arising from Group discussions which would, as compared with the Modification Proposal or the current version of the CUSC, better facilitate achieving the Applicable CUSC Objectives in relation to the issue or defect identified.

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6. The Workgroup should become conversant with the definition of Workgroup Alternative CUSC Modification which appears in Section 11 (Interpretation and Definitions) of the CUSC. The definition entitles the Group and/or an individual member of the Workgroup to put forward a WACM if the member(s) genuinely believes the WACM would better facilitate the achievement of the Applicable CUSC Objectives as compared with the Modification Proposal. The extent of the support for the Modification Proposal or any WACM arising from the Workgroup's discussions should be clearly described in the final Workgroup Report to the CUSC Modifications Panel.
7. Workgroup members should be mindful of efficiency and propose the fewest number of WACMs possible.
8. All proposed WACMs should include the Proposer(s)'s details within the final Workgroup report, for the avoidance of doubt, this includes WACMs which are proposed by the entire Workgroup or subset of members.
9. There is an obligation on the Workgroup to undertake a period of Consultation in accordance with CUSC 8.20. The Workgroup Consultation period shall be for a period of 15 working days as determined by the Modifications Panel.
10. Following the Consultation period, the Workgroup is required to consider all responses including any WG Consultation Alternative Requests. In undertaking an assessment of any WG Consultation Alternative Request, the Workgroup should consider whether it better facilitates the Applicable CUSC Objectives than the current version of the CUSC.

As appropriate, the Workgroup will be required to undertake any further analysis and update the original Modification Proposal and/or WACMs. All responses with any WG Consultation Alternative Requests shall be included within the final report, including a summary of the Workgroup's deliberations and conclusions. The report should make it clear where and why the Workgroup chairperson has exercised their right under the CUSC to progress a WG Consultation Alternative Request or a WACM against the majority views of Workgroup members. It should also be explicitly stated where, under these circumstances, the Workgroup chairperson is employed by the same organisation who submitted the WG Consultation Alternative Request.

11. The Workgroup is to submit its final Workgroup Report to the Modifications Panel Secretary on **05 November 2024 for circulation to Panel Members. The final Workgroup Report conclusions will be presented to the CUSC Modifications Panel meeting on 08 November 2024.**

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## Membership

12. It is recommended that the Workgroup has the following members:

Role	Name	Representing
Chair	Elana Byrne	
Technical Secretary	Tammy Meek	
Proposer	Alice Taylor*	NESO
Workgroup Member	Antony Cotton*	Green Generation Energy Networks Cymru Ltd
Workgroup Member	Andy Dekany*	National Grid Ventures
Workgroup Member Alternate	Alex Rohit*	Statkraft
Workgroup Member	Charles Deacon*	Eclipse Power
Workgroup Member	Claire Hynes*	RWE Renewables
Workgroup Member (Alternate)	Ciaran Fitzgerald*	Scottish Power Renewables
Workgroup Member	Gareth Williams*	Scottish Power Transmission
Workgroup Member	Garth Graham*	SSE Generation
Workgroup Member	Greg Stevenson	SSEN Transmission (SHET)
Workgroup Member (Alternate)	Jonathan Whitaker*	SSEN Transmission (SHET)
Workgroup Member (Alternates)	Charles Yates*	Fred Olsen Seawind
Workgroup Member (Alternate)	Hannah Sharratt*	Electricity North West Limited
Workgroup Member	Jack Purchase*	National Grid Electricity Distribution
Workgroup Member	Joe Colebrook*	Innova Renewables
Workgroup Member	Jonathan Hoggarth*	EDF Renewables UK & Ireland

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Workgroup Member	Kyran Hanks*	CUSC Panel member
Workgroup Member	Nirmalya Biswas*	Northern Powergrid
Workgroup Member	Paul Jones*	Uniper
Workgroup Member	Paul Youngman*	Drax
Workgroup Member	Ravinder Shan*	FRV TH Powertek Limited
Workgroup Member	Richard Woodward*	National Grid Energy Transmission
Workgroup Member	Rob Smith*	Enso Energy
Workgroup Member	Ross Thompson	UK Power Networks
Workgroup Member (Alternate)	Steve Halsey*	UK Power Networks
Workgroup Member	Sam Aitchison*	Island Green Power
Workgroup Member	Samuel Railton*	Centrica
Workgroup Member	Wendy Mantle*	Scottish Power Energy Networks
Authority Representative	Liam Cullen	Ofgem
Authority Representative	Rory Fulton	Ofgem
Authority Representative (Alternate)	Salvatore Zingale	Ofgem

The above table only includes the Workgroup members or Alternates who voted within the Workgroup Vote held on 04 November 2024, the Code Administrator and Authority Representatives.

Please refer to the attendance log (Annex 13) for a full list of Workgroup members and Alternates for CMP434.

NB: A Workgroup must comprise at least 5 members (who may be Panel Members). The roles identified with an asterisk (\*) in the table above contribute toward the required quorum, determined in accordance with paragraph 14 below.

- The Chairperson of the Workgroup and the Modifications Panel Chairperson must agree a number that will be quorum for each Workgroup meeting. The agreed figure for this modification is that at least 5 Workgroup members must participate in a meeting for quorum to be met.

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14. A vote is to take place by all eligible Workgroup members on the Modification Proposal and each WACM. The vote shall be decided by simple majority of those present at the meeting at which the vote takes place (whether in person or by teleconference). The Workgroup chairperson shall not have a vote, casting or otherwise. There may be up to three rounds of voting, as follows:

**Vote 1:** whether each proposal better facilitates the Applicable CUSC Objectives;

**Vote 2:** where one or more WACMs exist, whether each WACM better facilitates the Applicable CUSC Objectives than the original Modification Proposal;

**Vote 3:** which option is considered to BEST facilitate achievement of the Applicable CUSC Objectives. For the avoidance of doubt, this vote should include the existing CUSC baseline as an option.

The results from the vote and the reasons for such voting shall be recorded in the Workgroup report in as much detail as practicable.

15. It is expected that Workgroup members would only abstain from voting under limited circumstances, for example where a member feels that a proposal has been insufficiently developed. Where a member has such concerns, they should raise these with the Workgroup chairperson at the earliest possible opportunity and certainly before the Workgroup vote takes place. Where abstention occurs, the reason should be recorded in the Workgroup report.

16. Workgroup members or their appointed alternate are required to attend a minimum of 50% of the Workgroup meetings to be eligible to participate in the Workgroup vote.

17. The Technical Secretary shall keep an Attendance Record for the Workgroup meetings and circulate the Attendance Record with the Action Notes after each meeting. This will be attached to the final Workgroup report.

18. The Workgroup membership can be amended from time to time by the CUSC Modifications Panel.

#### Terms of Reference Version Control

Issue	Date	Summary of Changes / Reasons	Panel Approval Date
1	19/04/2024	Panel approved Terms of Reference ahead of nominations	26/04/2024
2	22/05/2024	Panel approved at the May CUSC Panel	31/05/2024
3	01/11/2024	Updated references to the Workgroup Report and Workgroup members added	To be sent on 05/11/2024 for Panel approval