



Making a positive difference
for energy consumers

Trisha McAuley OBE
Independent Chair
CUSC Panel
c/o National Energy System Operator
Faraday House, Gallows Hill
Warwick, CV34 6DA

Mobile: 07548045631
Email: harriet.harmon@ofgem.gov.uk

Date: 5 December 2024

Dear Trisha,

Decision on CUSC Modification Panel’s recommendation for CMP445 ‘Pro-rating first year TNUoS for Generators’ to be treated as an Urgent CUSC Modification Proposal

On 14 November 2024, Ocean Winds (the ‘Proposer’) raised Connection and Use of System Code (CUSC) Modification Proposal CMP445¹ (the ‘Proposal’). The Proposer subsequently presented CMP445 to the CUSC Modifications Panel (the ‘Panel’) at its meeting on 29 November 2024, requesting that the Proposal be treated as an urgent CUSC Modification Proposal.

On 29 November 2024, following the meeting, the Panel wrote to inform us² of its majority view that CMP445 should be treated as an urgent CUSC Modification Proposal,³ with most Panel members considering that there could be a significant commercial impact on parties, consumers or other stakeholder(s) if the Proposal were to not be treated as urgent.

We have considered the Panel and the Proposer’s arguments and have decided that CMP445 should not be progressed on an urgent basis. We have set out our reasoning below.

¹ [CMP445 Pro-rating first year TNUoS for Generators | National Energy System Operator](#)

² 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.

³ <https://www.neso.energy/document/348431/download>

Background

The ongoing costs of the transmission network are recovered by Transmission Network Use of System (TNUoS) charges, which are recovered from generators and demand users. Section 14.18.19 of the CUSC establishes that TNUoS is charged on a monthly basis, with TNUoS generation charges for each Financial Year based on a generator's Transmission Entry Capacity (TEC).

The CUSC does not explicitly set out how TNUoS generation charges are paid during the Financial Year in which a generator first connects (or subsequently reconnects) to the transmission network. The operative process is that National Energy System Operator (NESO) charges generators TNUoS for the full Financial Year in which their generation facility connects to the grid. As such, charges are not apportioned on a *pro rata* basis, with connecting generators paying a TNUoS for the full charging year in which they connect regardless of whether they connect on day one or day 365. NESO applies the same interpretation for generators seeking to disconnect from the transmission grid.

The Proposal

The Proposer seeks to amend the CUSC to 'clarify' the apportionment of TNUoS generation charges for a generator for the Financial Year in which it connects or reconnects to the transmission network. If implemented, the Proposal would result in generators paying TNUoS only in respect to the part of the year during which they use the transmission system. The Proposal would achieve this by pro-rating the annual TNUoS value from the Charging Date (ie the date of connection) to the end of the relevant Financial Year.

The Urgent Timeline contained in Appendix 1 of the urgency request letter indicates the Proposer's desire for the Proposal to apply retrospectively, with an anticipated Ofgem decision date of 15 April 2025 and an implementation date of 1 April 2024.

The Proposer has requested urgency on the basis that failing to do so would cause a significant commercial impact on parties, consumers or other stakeholder(s), Ofgem Urgency Criterion (a).⁴ The Proposer names Moray West, a large offshore wind farm based in TNUoS Zone 1 specifically as facing a significant commercial impact, and notes its assumption that other generators will be similarly impacted in the 2024/25 charging year. The Proposer also notes that Revenues = Incentives + Innovation + Outputs – Transmission 3 (RIIO-T3) business plans covering the 2026-2031 period are due for

⁴ As published in our [Urgency Guidance](#)

submission imminently, and that approving this urgency request would allow for this change, if implemented, to be captured as part of the RIIO-T3 process. In support of its request for urgency, the Proposer states that it anticipates the Proposal would be “easy to implement” and, in the context of numerous offshore wind projects planning to connect over the coming years, that delays to making a decision on the Proposal “will lead to investor uncertainty”.

Panel view

The Panel considered the request for urgency with reference to the published Ofgem Guidance on Code Modification Urgency. At the Panel meeting on 29 November 2024, most Panel members agreed to recommend to Ofgem the Proposal be progressed as an urgent CUSC Modification Proposal. The arguments for and against urgent treatment are set out in the letter from the Panel.

The Panel members in support of urgency agreed with the Proposer that there may be a significant commercial impact on parties, consumers or other stakeholder(s) if the Proposal does not progress on an urgent basis, thus meeting Ofgem Urgency Criterion (a). Two Panel members supporting the request for urgency considered that the Proposal’s envisaged retrospective effect should not prevent Ofgem from granting the Proposal urgency, with one Panel member identifying an analogous situation surrounding CMP425⁵ and another aligning with the Proposer’s view that a standard timeline would result in investor uncertainty.

One Panel member expressed a view that the commercial impact flowing from the requirement to pay a full year of TNUoS charges regardless of the connection date is not a new one, and that the Proposer could have avoided requesting urgency by raising the Proposal sooner. The Panel member was concerned that, by approving such a request, a poor precedent could be set that urgency requests such as this would become normalised going forwards.

Another Panel member questioned, in light of Ofgem’s decision on the urgency request for CMP268 and the Panel’s views on CMP384, whether the Proposal corresponded to an imminent event *per se*, noting that if the payment of TNUoS charges constituted an imminent event, then this might also apply to any modification proposal relating to TNUoS charging.

Our decision

⁵ [CMP425: Billing Demand Transmission Residual By Site | National Energy System Operator](#)

In reaching our decision on urgency, we have considered the details within the Proposal, the justification for requesting urgency, and the views of the Panel. We have assessed the request against the Urgency Criteria set out in our published guidance, and in particular, whether the Proposal is linked to an imminent or current issue that, if not urgently addressed, may cause a significant commercial impact on users.

We disagree with the Proposer that the Proposal relates to an imminent or current issue that, if not urgently addressed, may cause a significant commercial impact. As the NESO's interpretation of Section 14.18.19 has not changed, the practice of generators being required to pay a full year's value of TNUoS charges irrespective of their date of connection within that year is well established and eminently predictable.

There has been no evidence submitted indicating that the NESO's approach to charging TNUoS in the 2024/25 charging year is in any way exceptional, or that the charges themselves would have been unforeseeable.

We accept that the question of how much TNUoS connecting or reconnecting parties pay in the first year of connection would affect *the manner in which* the total annualised allowed revenues formed through the Annual Iteration Process under RIIO-T3 are collected. We do not, however consider that it will affect *whether* those revenues are collected. Sums not paid by connecting generators through any pro rating (were the Proposal to be approved) would be paid by consumers through the residual charge. In our view, therefore, granting urgency on the basis of this RIIO-T3 interaction would in effect be granting urgency on the basis of a change in how allowed revenues are collected, and that may be true of many modifications related to transmission charging. Likewise, while it might be true that a level of investor uncertainty might result from any modification proposal, it is not clear that the uncertainty from following the standard timeline in this instance is of a level that justifies the granting of urgency. It seems to us that the uncertainty around this issue has principally been driven by the raising of the Proposal, rather than by the status quo (ie, the question of whether pro rating would be appropriate is open because CMP445 has been raised, rather than having been otherwise subject to change).

We therefore do not agree that we should grant the Proposal urgency and disagree with the Panel that the modification should follow the urgent (rather than the standard) timetable set out in the Panel's letter. We would note that the Proposal potentially engages with elements of retrospectivity, and we would take this opportunity to remind parties that they should generally avoid retrospective modifications, unless accompanied by justification, which is likely to involve exceptional circumstances. This decision is in line with the Ofgem

Urgency Guidance, which considers that a proposer's intent for its proposal to apply retrospectively may negate the need for urgency. It should be noted that whilst the Panel refers to our decision in respect of CMP425, which had retroactive effect, the urgency request letter⁶ sent to us in respect of that proposal indicated a forward-looking timeline and not retroactivity: our decision on urgency was therefore made on a different basis to this CMP445.

Rather than seeking urgency, the Proposer could have brought forward the timelines for the implementation of this Proposal by raising a proposal on this matter earlier. We factor the delay to raising a proposal on an issue when considering, under our Urgency Criteria, whether a matter is truly urgent.

For the avoidance of doubt, in rejecting the request for urgency, we have made no assessment of the merits of the Proposal and nothing in this letter in any way fetters our discretion in respect of the Proposal.

Yours sincerely,

Harriet Harmon

**Head of Electricity Transmission Charging
Energy Systems Management and Security**

Duly authorised on behalf of the Authority

⁶ [Urgency Letter](#)