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Code Administrator Consultation Response Proforma

CMP434: Implementing Connections Reform

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@nationalenergyso.com by **5pm GMT on 26 November 2024**. Please note that any responses received after the deadline or sent to a different email address will not be accepted.

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

Respondent details	Please enter your details	
Respondent name:	Paul Youngman	
Company name:	Drax group	
Email address:	paul.youngman@drax.com	
Phone number:	07738 802266	
Which best describes your organisation?	<input type="checkbox"/> Consumer body <input type="checkbox"/> Demand <input type="checkbox"/> Distribution Network Operator <input checked="" type="checkbox"/> Generator <input type="checkbox"/> Industry body <input type="checkbox"/> Interconnector	<input checked="" type="checkbox"/> Storage <input checked="" 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 Panel or the industry for further consideration*)

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

- 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.*

Please express your views in the right-hand side of the table below, including your rationale.

Standard Code Administrator Consultation questions		
1	Please provide your assessment for the proposed solutions against the Applicable Objectives?	Mark the Objectives which you believe the proposed solutions better facilitate:
		Original <input type="checkbox"/> a <input type="checkbox"/> b <input type="checkbox"/> c <input type="checkbox"/> d
		WACM1 <input type="checkbox"/> a <input type="checkbox"/> b <input type="checkbox"/> c <input type="checkbox"/> d
		WACM2 <input type="checkbox"/> a <input type="checkbox"/> b <input type="checkbox"/> c <input type="checkbox"/> d
		WACM3 <input type="checkbox"/> a <input type="checkbox"/> b <input type="checkbox"/> c <input checked="" type="checkbox"/> d
		WACM4 <input type="checkbox"/> a <input type="checkbox"/> b <input type="checkbox"/> c <input checked="" type="checkbox"/> d
		WACM5 <input type="checkbox"/> a <input type="checkbox"/> b <input type="checkbox"/> c <input checked="" type="checkbox"/> d
		WACM6 <input type="checkbox"/> a <input type="checkbox"/> b <input type="checkbox"/> c <input checked="" type="checkbox"/> d
		WACM7 <input type="checkbox"/> a <input checked="" type="checkbox"/> b <input type="checkbox"/> c <input type="checkbox"/> d
		<p>Summary</p> <p>The original proposal is neutral overall. Several WACM's may have a benefit compared to the baseline and the original proposal in that they provide simplification and/ or greater legal certainty. Our Preference is for WACM6. This alternative</p>

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		<p>obligates the NESO to codify the methodologies within the CUSC.</p> <p>We are also supportive of WACM 7. It is our view that the additional transparency measures and facility for the market to self-correct at a minimal cost, is sensible.</p> <p>Original proposal – General points</p> <p>The original proposal is neutral overall. Our assessment is based on the potentially <i>negative</i> impacts on competition and existing project investment being counterbalanced by marginal <i>potential</i> improvements to processes when compared with the baseline.</p> <p>The original CUSC proposal (and the WACM’s to a greater or lesser extent) does not directly remedy the identified defect. The original proposal is reliant on methodologies developed exclusively by the NESO, and the outcome of any decision by the government with respect to their Clean Power 2030 plan. These substantive elements of the proposed connection reform are outside of CUSC governance. None of the details in either of the methodologies, or the accompanying impact assessment to the methodologies were scrutinised and discussed by the workgroup.</p> <p>The lack of impact assessment and quantitative analysis has been detrimental and limited constructive development for the original and alternatives.</p> <p>Finally, the CUSC modifications are not mutually exclusive. CMP435 and CMP434 are intrinsically linked and are interdependent on each other, as well as the supporting methodologies. We are not aware of any other code proposal where this level of interdependence across modifications and dependence on rules and obligations outside of CUSC has been approved by Ofgem.</p> <p>Assessment</p> <p>Against Applicable Objective (AO) (a) the impact is neutral as it is not clear how efficiency is improved. Little supporting quantitative evidence has been provided as justification for how the proposed CUSC changes address the defect. Additionally, without supplemental decisions by the government and Ofgem related to Clean Power 2030 and the methodologies, the CUSC modifications are unlikely to have an impact. We also note the</p>
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		<p>potential for further delay and risk to project investments if any aspect of the solution (CUSC modifications, Methodology or Clean Power 2030) is successfully legally challenged.</p> <p>For AO (b), there has been little quantitative evidence provided to the CUSC working group or quantitative assessment of the impact of the proposal or alternates. Consequently, it has not been possible to judge objectively if any detrimental impact on competition is material or proportionate. Qualitative assessment and comment within the working group has focussed on the approach taken and the potential for this to lead to undue discrimination. We agree that this negative outcome is more likely where the substantive elements of change have not been transparent and /or have not been through CUSC open governance. Without quantitative evidence we consider that the original proposal is negative against AO (b). This is on the basis that the implementation of the CUSC change may lead to undue discrimination, given the code modification precedes consultation on the methodologies and associated licence, and other proposed changes. This includes as yet undefined legislative changes highlighted in the open letter of 5th November (Open letter from DESNZ and Ofgem: Aligning grid connections with strategic plans (5 November 2024) - GOV.UK).</p> <p>We consider that AO (c) is neutral. We do share the concerns of workgroup members that legal assessment on several issues related to having clear terms and conditions and compliance with retained law are not clear at the point of consultation as these may or may not be within the methodologies.</p> <p>For AO (d) we consider the original proposal is neutral. The original proposal provides insufficient quantitative and qualitative evidence of how it will improve the connection process. With all the detail of additional obligations on parties in the methodologies, there is little evidence that the CUSC changes proposed are the most efficient and effective that could be made.</p> <p>WACM assessment</p> <p>WACM 3 4 and 5 alter aspects of the process that may remove some complexity and marginally improve the original proposal in comparison to the baseline. Our preference is for WACM6. This alternative obligates the NESO to codify the methodologies</p>
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		<p>within CUSC. This should provide more legal certainty to parties that methodologies will have suitable open governance arrangements. We consider that this may reduce the risk of legal challenge.</p>
2	<p>Do you have a preferred proposed solution?</p>	<p> <input type="checkbox"/> Original <input type="checkbox"/> WACM1 <input type="checkbox"/> WACM2 <input type="checkbox"/> WACM3 <input type="checkbox"/> WACM4 <input type="checkbox"/> WACM5 <input checked="" type="checkbox"/> WACM6 <input type="checkbox"/> WACM7 <input type="checkbox"/> Baseline <input type="checkbox"/> No preference </p> <p> We are concerned about the potential for successful legal challenge given the novel approach taken by the original proposal. We are mindful that precedent and recent decisions by Ofgem have favoured transparent open governance arrangements (e.g. Retail Energy Code modification R0170: rejected Ofgem). </p> <p> Of the options presented, we are supportive of WACM6 which places the obligation to bring the methodologies and guidance documents under open governance arrangements. We believe this option has the lowest risk of legal challenge as there is a clear intent to assimilate the rules and obligations in the methodologies, and associated connection terms and conditions for connecting parties within the CUSC. </p>

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		We believe that WACM6 satisfies applicable CUSC objective (d) and would generally better facilitate the Applicable Objectives than the Baseline.
3	Do you support the proposed implementation approach?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
		The implementation approach chosen is complex with multiple interdependencies between separate CUSC modifications, potential methodologies, licence changes and potentially additional legislative changes required (Ref. - Open letter from DESNZ and Ofgem: Aligning grid connections with strategic plans (5 November 2024) - GOV.UK). It is also not clear if additional DCUSA or other code changes may be needed to support the approach that has been proposed. We encourage the NESO to provide clarity on whether there are supplementary code changes required to align CMP434.
4	Do you have any other comments?	We note that a couple of votes on more substantive alternatives in both CMP434 and CMP435 were close to a hung vote, and that the code administrator has chosen not to progress these. We were surprised by this action as it appears inconsistent with the approach taken in other workgroups.
5	Do you agree with the Workgroup's assessment that the modification does not impact the Electricity Balancing Regulation (EBR) Article 18 terms and conditions held within the CUSC?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No