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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:	Garth Graham	
Company name:	SSE Generation	
Email address:	Garth.graham@sse.com	
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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 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*)

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

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- 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 checked="" type="checkbox"/> a <input checked="" type="checkbox"/> b <input type="checkbox"/> c <input checked="" 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 checked="" type="checkbox"/> a <input checked="" type="checkbox"/> b <input type="checkbox"/> c <input checked="" type="checkbox"/> d
		WACM4 <input checked="" type="checkbox"/> a <input checked="" type="checkbox"/> b <input type="checkbox"/> c <input checked="" type="checkbox"/> d
		WACM5 <input checked="" type="checkbox"/> a <input checked="" type="checkbox"/> b <input type="checkbox"/> c <input checked="" type="checkbox"/> d
		WACM6 <input checked="" type="checkbox"/> a <input checked="" type="checkbox"/> b <input type="checkbox"/> c <input checked="" type="checkbox"/> d
		WACM7 <input checked="" type="checkbox"/> a <input checked="" type="checkbox"/> b <input type="checkbox"/> c <input checked="" type="checkbox"/> d
		<p>[a]</p> <p>We broadly agree with the Proposer's assessment that the Original proposal (from the NESO) does better facilitate Applicable Objective (a) as this change will; when the Transmission Licence is changed (which, as we understand it, will occur in due course, and in any event at the same time as or before this proposal is approved by the Authority);</p>

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		<p>ensure the efficient discharging by the NESO of its obligations.</p> <p>WACMs 3 to 7, as they are based upon the Original, likewise better facilitate Applicable Objective (a).</p> <p>However, in our view, WACMs 1 and 2 do not better facilitate Applicable Objective (a) for the reasoning we set out in Question 2 below.</p> <p>[b]</p> <p>We broadly agree with the Proposer's assessment that the Original better facilitates Applicable Objective (b) as it should, in principle, facilitate connection for readier and more viable projects which, therefore, should enhance effective competition.</p> <p>WACMs 3 to 7, as they are based upon the Original, likewise better facilitate Applicable Objective (b).</p> <p>However, in our view, WACMs 1 and 2 do not better facilitate Applicable Objective (b) for the reasoning we set out in Question 2 below.</p> <p>[c]</p> <p>In our view there is a degree of legal uncertainty regarding the approach that is proposed to be followed within the Original (and thus all seven WACMs); in terms of the need for the terms and conditions for connection to be approved by the Authority; which the proposed approach, with the 'Methodologies', does not align with.</p> <p>In this regard we are also mindful that these concerns, around legal uncertainty, have been recognised by DESNZ and Ofgem in their 5th November joint letter (as well as in a Utility Week article last Friday "Ofgem chair: We may need legislation to ward off legal challenges to connections reform") which stated that DESNZ planned to introduce legislation as this "should provide certainty to all parties on the direction of travel for connections". (<u>Aligning grid connections with strategic plans</u>)</p> <p>This is something we would welcome as it should; within the context and limitations of the general legal requirement set out within, for example, (i) the Trade & Cooperation Agreement and (ii) wider international treaty obligations for investors (such as those pertaining to property rights with</p>
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		<p>Article 1 of the First Protocol of the European Convention on Human Rights); ensure that the CMP434 Original proposal (and thus all seven WACMs) conforms with the wider legal framework.</p> <p>If the legislation is not put into effect, then there is a heightened risk that CMP434 Original (and all seven WACMs) are <u>not</u> in compliance with the Electricity Regulation and the relevant legally binding decisions of the European Commission and / or ACER – and if this were so, then CMP434 Original and all seven WACMs would not better facilitate Applicable Objective (c).</p> <p>[d]</p> <p>We broadly agree with the Proposer's assessment that the Original better facilitates Applicable Objective (d) as the greater coordination of network designs (which the batched assessment approach, via the window's mechanism, achieves) should result in a more efficient administration of the connection agreements, as set out within the overall CUSC arrangements.</p> <p>WACMs 3 to 7, as they are based upon the Original, likewise better facilitate Applicable Objective (d).</p> <p>However, in our view, WACMs 1 and 2 do not better facilitate Applicable Objective (d) for the reasoning we set out in Question 2 below.</p>
2	Do you have a preferred proposed solution?	<p><input type="checkbox"/> Original</p> <p><input type="checkbox"/> WACM1</p> <p><input type="checkbox"/> WACM2</p> <p><input type="checkbox"/> WACM3</p> <p><input type="checkbox"/> WACM4</p> <p><input type="checkbox"/> WACM5</p> <p><input type="checkbox"/> WACM6</p> <p><input type="checkbox"/> WACM7</p> <p><input type="checkbox"/> Baseline</p>

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		<p><input type="checkbox"/> No preference</p> <p><u>WACM1</u></p> <p>In our view there is a high degree of legal uncertainty regarding the non-harmonised approach to the thresholds for generation connection, that are at the centre of this WACM1.</p> <p>In this regard we are also mindful that these concerns, around legal uncertainty, have been recognised by DESNZ and Ofgem in their 5th November (Aligning grid connections with strategic plans) joint letter (as well as in a Utility Week article last Friday “Ofgem chair: We may need legislation to ward off legal challenges to connections reform”), which stated that DESNZ planned to introduce legislation as this <i>“should provide certainty to all parties on the direction of travel for connections”</i>.</p> <p>This is something we would welcome as it should; within the context and limitations of requirements set out within (i) the Trade & Cooperation Agreement and (ii) wider international treaty obligations for investors (such as those pertaining to property rights with Article 1 of the First Protocol of the European Convention on Human Rights); ensure that the CMP434 proposal is legally robust.</p> <p>There are also wider benefits of harmonisation, which have been well established for some time, that we have detailed in our GC0117 proposal (Modification Proposal). For the sake of brevity, we refrain from repeating those wider benefits here.</p> <p>Therefore, in light of the legal and other disadvantages in WACM1, our view is that WACM1 does not better facilitate Applicable Objectives (a) or (b) or (c) or (d).</p> <p><u>WACM2</u></p> <p>The intention behind WACM2, to place an ‘absolute’ obligation on DNOs and transmission connected iDNOs, is one that, in our view, is overburdening the parties concerned as the ‘reasonable endeavours’ standard should in practice achieve broadly the same outcome.</p>
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		<p>Therefore, in light of this, in our view WACM2 does not better facilitate Applicable Objectives (a) or (b) or (d).</p> <p><u>WACM3</u></p> <p>In our view the intention of WACM3, of maintaining the current open governance approach for the capacity reallocation mechanism has, in principle, intrinsic merit (when compared to the counterfactual, of non-codification).</p> <p>More generally, we are concerned by the level of unilateral control being given to the NESO within the currently proposals without adequate assurances that Ofgem and / or DESNZ will retain / take an active overarching role. The current open governance approach inevitably takes more time, but the benefits of rounded discussion, good industry challenge and User input must not be ignored / cut out of new streamlined processes. These checks and balances are critical.</p> <p>Therefore, in light of the positive attributes in WACM3, our view is that WACM3 does better facilitate Applicable Objectives (a) and (b) and (d).</p> <p><u>WACM4</u></p> <p>In our view, the intention of WACM4, of maintaining the current open governance approach for the 'red line boundary' arrangements has, in principle, intrinsic merit (when compared to the counterfactual, of non-codification).</p> <p>Therefore, in light of the positive attributes in WACM4, our view is that WACM4 does better facilitate Applicable Objectives (a) and (b) and (d).</p> <p><u>WACM5</u></p> <p>The case for NESO 'Project Designation' alongside proposed strategic plans (i.e., CP30 / SSEP) has not, in our view, been clearly set out.</p> <p>Furthermore, in respect of NESO 'reservation', if a project is not needed (according to CP30 et al) then it is not clear what the basis is for NESO to, nevertheless, be reserving capacity either (a) for a specific project or (b) a non-specific 'project' (which appears to be 'an educated guess' / 'hunch', on the part of NESO, that some unknown 'project' (i) of technology X, (ii) located in area Y and (iii) of capacity Z</p>
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		<p>should be built for (by the TOs) in ‘anticipation’ / ‘expectation’ that it will appear at some point in the future).</p> <p>This is further compounded by the uncertainty as to how all the costs; incurred by the TOs; for any capacity associated with (b) type projects, will be charged.</p> <p>Requiring other generators to pay for this ‘spare’ capacity, which arises solely from the NESO’s guess / hunch, will result in existing generators paying a non-cost reflective charge; and any future generator, who does avail themselves of some of this (b) type project capacity, avoiding the costs (and time delay) that have been incurred up to that point.</p> <p>Therefore, whilst we can see the rationale for wanting to include a mechanism that offers scope to deviate from CP30 or future plans in limited circumstances, based on the information presented and the above deficiencies in project designation, the case has not, in our view, been greatly substantiated but, overall, when compared with the baseline, WACM5 does better facilitate Applicable Objectives (a), (b) and (d).</p> <p><u>WACM6</u></p> <p>In our view there is merit in having a post implementation evaluation of the three proposed new Methodologies a year or so after they have been put into practical effect to ensure that lessons are both learnt and acted upon with alacrity. Having a short (four month) review allows (i) for a timely assessment of the success and efficacy of the reform objectives and (ii) for possible ‘next steps’ to be developed (to build upon the lessons learnt’) if appropriate; and is a welcome way forward.</p> <p>Therefore, in light of the positive attributes in WACM6, our view is that WACM6 does better facilitate Applicable Objectives (a) and (b) and (d).</p> <p><u>WACM7</u></p> <p>In our view there is merit in having a short pause within the process to allow for market participants to assess their status; regarding the likelihood of receiving either a Gate 1 or Gate 2 Offer; prior to the NESO and TOs progressing with their more detail evaluation as part of the batched assessment process. In this way WACM7 will reduce the</p>
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		<p>level of nugatory work undertaken by the NESO and TOs (as well as projects that, absent this pause, would have 'progressed'...to 'nowhere'...which could be avoided if the WACM7 element is taken forward to implementation).</p> <p>Therefore, in light of the positive attributes in WACM7, our view is that WACM7 does better facilitate Applicable Objectives (a) and (b) and (d).</p>
3	Do you support the proposed implementation approach?	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>We support the proposed implementation approach, in regards to CMP434, as set out on pages 78-79 of the consultation document.</p> <p>Going forward, assuming that CMP434 is approved, it would be helpful for stakeholders if the NESO could quickly establish a 'rhythm' / 'cadence' for the proposed windows so that market participants can adjust their work patterns accordingly (to align with the twice a year windows, batched assessment outcomes (offers) and the need for them to accept (sign) their project offer(s)).</p>
4	Do you have any other comments?	<p>We recognise it is important to implement connections reform as proposed (in a legally robust way) to enable current projects in the queue to progress and deliver in line with the CP30 pathway(s).</p> <p>However, beyond delivery of the CP30 pathway(s), there is still a question in our mind whether further changes are required to establish a more enduring connections process that truly drives the right behaviours and reflects the differences between technologies and their lead times.</p>
5	Do you agree with the Workgroup's assessment that the	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>

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	modification does not impact the Electricity Balancing Regulation (EBR) Article 18 terms and conditions held within the CUSC?	Yes, we agree with the Workgroup's assessment that the modification does not impact the Electricity Balancing Regulation (EBR) Article 18 matters held within the CUSC; although, as per our answer to Question 1, there are concerns as to the impacts; in respect of the legal certainty for this proposed change; around the terms and conditions for connection as set out in the Third Package and the associated Network Codes related to the connection of generation, demand and HVDC assets.
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