

## 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](mailto: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](mailto:cusc.team@nationalgrideso.com)

Respondent details	Please enter your details	
<b>Respondent name:</b>	Graham Pannell	
<b>Company name:</b>	BayWa r.e. UK	
<b>Email address:</b>	Graham.pannell@baywa-re.co.uk	
<b>Phone number:</b>	07823432508	
<b>Which best describes your organisation?</b>	<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?	Mark the Objectives which you believe the Original solution better facilitates:  Original <input type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D	
<p>We see merit in the proposal, however, in keeping with our response to CMP434:</p> <p>The proposal is <b><u>entirely without key documentation</u></b>. Without key documentation on implementation and policy, it is impossible to make meaningful assessment; furthermore, the <i>uncertainty</i> makes this proposal worse than baseline. Without key documentation the proposal cannot be seriously considered for fairness, competence, completeness, nor mitigation against undue discrimination.</p> <p>We would welcome reconsideration when key documentation drafts are published.</p> <p>This proposal has:</p> <ul style="list-style-type: none"> <li>• No CNDM documentation <ul style="list-style-type: none"> <li>○ No connection sharing detail</li> <li>○ No queue (re)allocation detail</li> </ul> </li> <li>• No Gate 2 Methodology documentation.</li> <li>• No Project Designation Methodology.</li> <li>• No guard-rails of fairness, no agreeable dispute resolution (noting the key documentation is to sit outside CUSC).</li> <li>• No process for staged TEC.</li> </ul> <p>A meaningful impact assessment is therefore impossible, and any decision taken by the regulator could be highly susceptible to challenge.</p>			
2	Do you support the proposed implementation approach? (See page- 57-58)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<p>The proposal is <b><u>entirely without key documentation</u></b>. Without key documentation on implementation and policy, it is impossible to make meaningful assessment; furthermore, the <i>uncertainty</i> makes this proposal worse than baseline. Without key</p>			

	<p>documentation the proposal cannot be seriously considered for fairness, competence, completeness, nor mitigation against undue discrimination.</p> <p>We would welcome reconsideration when key documentation drafts are published.</p> <p>This proposal has:</p> <ul style="list-style-type: none"> <li>• No CNDM documentation <ul style="list-style-type: none"> <li>○ No connection sharing detail</li> <li>○ No queue (re)allocation detail</li> </ul> </li> <li>• No Gate 2 Methodology documentation.</li> <li>• No Project Designation Methodology.</li> <li>• No guard-rails of fairness, no agreeable dispute resolution (noting the key documentation is to sit outside CUSC).</li> <li>• No process for staged TEC.</li> </ul> <p>A meaningful impact assessment is therefore impossible, and any decision taken by the regulator could be highly susceptible to challenge.</p>	
3	<p>Do you have any other comments?</p> <p><a href="#">Click or tap here to enter text.</a></p>	
4	<p>Do you wish to raise a Workgroup Consultation Alternative Request for the Workgroup to consider?</p>	<p><input type="checkbox"/> Yes (the request form can be found in the <a href="#">Workgroup Consultation Section</a>)</p> <p><input checked="" type="checkbox"/> No</p>
<p><i>CMP435 exclusively:</i></p> <p>We hope the Original will be updated, but if not, we would <b>support a WACM which moves the 3-year Gate 1 longstop to a date commensurate with pre-existing target grid date</b>, but <b>only for pre-existing contracts</b> moved into Gate 1. The Gate 1 long-stop for the users will be the <i>latest</i> of either (a) 3 years as per CMP434 or (b) 3 years less than the time remaining to the original target grid date. See our answer to Element 8 in this response, with two examples.</p> <p><i>Copied from CMP434:</i></p> <p>We hope the Original will be updated, but if not, we would <b>support a WACM which moves the 3-year Gate 1 longstop to end on “meets Gate 2 criteria (and requests Gate 2 offer)”</b> rather than “accepts Gate 2 offer”. The original puts undue pressure on accepting a Gate 2 offer regardless of its content or complexity; in our experience time extensions are frequently needed to correct mistakes in connection offers as much as negotiate appropriate content, and the Original would seem to force developers to accept sub-optimal or incorrect offers to meet the cut-off. “Meet Gate 2 (and request a Gate 2 Offer)” as a benchmark is cleaner, it cuts out the complexity of offer negotiation.</p>		

	<p>We hope the Original will be updated, but if not, we would support a <b>WACM which enhances duplication checks of LoAs and RLBs at Gate 1 and Gate 2.</b> Necessary to rationalise the queue with relatively low administrative burden.</p> <p>We hope the Original will be updated, but if not, we would support a <b>WACM which limits how early planning milestone dates can be set against target grid dates being offered.</b> See our answer to 'Element 11' below.</p>
--	--

### Specific Workgroup Consultation questions

5 Do you agree with the elements of the proposed solution for CMP435? *Please note that the application of these elements may be different to [CMP434](#), therefore please answer the questions in respect to CMP435.*

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](#).

Please provide rationale for your answer and any suggestions for improvement to each element?

<b>Element 1:</b> Proposed Authority approved methodologies and ESO guidance (see Page 8-10,29)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
---	--

The proposal is **entirely without the key documentation**. Without key documentation on implementation and policy, it is impossible to make meaningful assessment; furthermore the *uncertainty* makes this proposal worse than baseline. We would welcome reconsideration when key documentation drafts are published. Further detail in our answer to this question under CMP434.

<b>Element 3:</b> Clarifying which projects go through the Primary Process (See pages 10-11,29-31)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
--	--

Agree

<b>Element 5:</b> Clarifying any Primary Process differences for customer groups (See pages 11-12,32)	<input type="checkbox"/> Yes <input type="checkbox"/> No
---	---

Consultation period too short for meaningful consideration.

<b>Element 8:</b> Longstop Date for Gate 1 Agreements (See pages 12-13, 32-33)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
--	--

Need to add different length long-stop for *pre-existing contracts* moved onto Gate 1, where the agreed target grid date was relatively far into the future, e.g. 6 years or more.

Do not use default 3yrs long-stop for pre-existing contracted projects with longer grid target dates. There's no gaming and no detrimental effect on other users for allowing longer long-stops for these pre-existing users – being moved to Gate 1 means

capacity can still be allocated to other users which pass Gate 2 at an earlier stage. The affected users gave a timeline at the time of application, and this information supports TO needs cases. Otherwise, using the proposed 3y, users acting in good faith on their development timelines would be unfairly removed from Gate 1, and have to inefficiently make new applications with new fees to re-enter the process.

In future, users will enter into Gate 1 process later in development cognisant of the default long-stop, but these pre-existing contracted users acted in good faith at the time, giving useful information for transmission planning.

Generically an improvement would be for the long-stop to be calculated as no earlier than:

*[time remaining to original target grid date from the date transitioned to Gate 1]* subtracting [3 years], rounded up in whole financial years.

Hence the Gate 1 long-stop for these users will be the *latest* of either (a) 3 years as per CMP434 or (b) 3 years less than the time remaining to the original target grid date.

- Example (1) original contract target date 2029, CMP435 and move to Gate 1 occurs in Q1-2025: Gate 1 long-stop remains +3 years as per CMP434.
- Example (2) original contract target date 2032, CMP435 and move to Gate 1 occurs in Q1-2025: Gate 1 long-stop is set in 2029.

**Element 9:** Project Designation (See pages 14-15, 33-34)

☐ Yes  
☒ No

We would need to see a draft of the key documentation to consider this. The undetailed general concept gives too high a risk of undue discrimination to be able to offer support.

**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)

☐ Yes  
☒ No

Broadly agree.

No objection to the land requirements proposal '11.3'.

Regarding **M1 milestone** ('11.4'): M1 can **only** be set forward-looking if the grid connection date can be practically aligned. M1 deadline must not be set to drive development unduly faster than the scheduled grid connection target. This grid connection target will be known via the Gate 2 offer design process, and a table of appropriate time periods can be put together – i.e. the earliest an M1 date could be set for each planning route ahead of the target grid connection date could be added as a third data column on the table on p24, see image below.

The difference from queue management under CMP376, is that this check is from *when grid can be made available*, rather than from a user's choice of target date.

The M1 target becomes the *latest* of *either* (a) +X years forward-looking or (b) -Y years from grid target date, where X and Y are read from the appropriate columns.

*Example for illustration only – see rightmost column for “Y”:*

Planning Type	Proposal, assuming some land and planning work are done in parallel	Typical timescales based on views of some Workgroup Members	Earliest M1 in years before target grid date
Town and Country Planning (Scotland/England/Wales)	1 Year	1.5 Years	3.5
Section 36 (England/Scotland)	1 Year	1.5 Years	3.5
Development of National Significance (Wales)	1.5 Years	2 Years	4
NSIP / DCO (England)	2 Years	3 Years	5

**Element 13:** Gate 2 Criteria Evidence Assessment  
(See pages 22-23, 39-40)

☐ Yes  
☒ No

*Land rights must be checked with all projects to avoid the process being manipulated. Sampling will be insufficient.*

*Otherwise Agree.*

**Element 14:** Gate 2 Offer and Project Site Location Change (See pages 23-24, 40-41)

☐ Yes  
☐ No

*Pleased to see the work that has gone into this element. No present objection (while acknowledging the unprecedented short period for this consultation, which leaves too little time to consider meaningfully).*

**Element 16:** Introducing the proposed Connections Network Design Methodology (CNDM) (See pages 24-25, 41-42)

☐ Yes  
☒ No

*We would need to see a draft.*

*The undetailed general concept alone leaves too high a risk of undue discrimination to be able to offer support (as per our answer to question 1). In general, the criticality of this item to the value of contracts suggests codification, because of the need for open governance and better holding ESO to account, but we are open to seeing work done to convince us otherwise.*

*Agree that it is logical to amend interactivity processes in kind.*

**Element 19:** Contractual changes (See pages 26-28, 43-46)

☐ Yes  
☐ No

*Page 27 proposes that Transitional offers should pay an additional fee (ModApp fee) “as this will be the first time that the project will have been fully studied”. This must only be the case if the original application fee has been reconciled, and the user has been refunded unused spend from the original application fee. Most such users will have paid a full application fee for their (empty) transitional offer, and the ESO is currently in a cash-positive situation as a result.*

*Similarly, the first group (p26) which are transitioned onto Gate 1 must also have a fee reconciliation processed, either immediately or within 3 months, by the ESO to recognise any unspent application fees.*



<b>Element 20:</b> Cut Over arrangements (See page 28, 47)		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Broadly agree.		
6	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 <a href="#">CMP434</a> )? If yes, please provide supporting justification.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Click or tap here to enter text.		
7	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. If yes, please provide details and justification.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Consultation response proforma omits <b>Element 10</b> . <b>Element 10</b> Connection Point and Capacity Reservation. Yes: Broadly agree, however the reservations must be transparent, well-justified and clearly communicated.		
8	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.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Click or tap here to enter text.		
9	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?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Embedded Generators with GSP works may be unfairly and disproportionately affected. Securities and capital contributions for GSP works may fall disproportionately on very few distribution-connectees (even if only for an interim period) pending the detail of how queue rationalisation is performed, these projects may require significant sharing of these works to progress. In parallel work led by the ENA to better allocate these securities and capital contributions under Connections Action Plan is necessary to avoid these users being unduly pushed to terminate progression by this proposal.		