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Code Administrator 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@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 may not receive due consideration.

If you have any queries on the content of this consultation, please contact elana.byrne@nationalenergyso.com and catia.gomes@nationalenergyso.com or cusc.team@nationalenergyso.com

Respondent details	Please enter your details	
Respondent name:	Gareth Williams	
Company name:	SP Energy Networks	
Email address:	Gareth.williams@spenergynetworks.co.uk	
Phone number:	07779589884	
Which best describes your organisation?	<input type="checkbox"/> Consumer body <input type="checkbox"/> Demand <input checked="" type="checkbox"/> Distribution Network Operator <input 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 checked="" 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 solution(s) against the Applicable Objectives?	Mark the Objectives which you believe the proposed solution(s) better facilitates:
		Original <input checked="" type="checkbox"/> a <input checked="" type="checkbox"/> b <input type="checkbox"/> c <input checked="" type="checkbox"/> d
		WACM1 <input checked="" type="checkbox"/> a <input checked="" type="checkbox"/> b <input type="checkbox"/> c <input checked="" type="checkbox"/> d
<p>With a current connections contracted background of over 700GW across GB’s transmission and distribution networks, SP Energy Networks (SPEN) is fully supportive of the need for Connections Reform and alignment to Clean Power 2030 (CP30), in order to streamline the process and accelerate customer connection dates, where possible, for direct or embedded connections.</p> <p>We are supportive of CMP435 as an initial step towards a connections process that addresses the significant over-capacity in the current connections queue and achieving Net Zero targets. The proposed TMO4+ model will, in conjunction with Government’s CP30 proposals, move us from a ‘First Come, First Served’ to a ‘First Ready and Needed, First Connected’ approach.</p>		

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	<p>Whilst this is a welcome development, we are strongly of the view that, in isolation, the latest connections reform proposals, particularly addressing the extent of the current connections queue, will not go far enough to facilitate the acceleration of connections and drive the make-up and development of the network needed to meet the Government’s CP30 and Net Zero targets, without incorporating the proposals under CP30 alongside CMP435. We are therefore supportive of the latest plans to align the reformed connections process with the CP30 ambitions.</p> <p>We are particularly supportive of the ‘Gate 2 to Whole Queue’ revision as set out in CMP435. Given the significant over capacity of the current contracted connections queue, reassessment of the queue is an imperative exercise to undertake next year, if we are to address the problems deriving from the scale of the current connections queue. There must be a focus on ensuring that projects that are unable or unwilling to progress are removed from the queue and that the revised connections queue is made up of projects, not only able to evidence their progression, but that they also align with Government’s CP30 and Net Zero targets. The outputs from the CMP435 revision exercise are important to provide us with the certainty that we need to confidently deliver on our connections-driven network plans. Combined with the CP30 proposals, the CMP435 proposal should significantly reduce the queue and introduce the higher barriers to entry required. However, given the constrained nature of SPT/SPD’s network, we anticipate that many connections will remain behind necessary reinforcement works, limiting any shortening of connection programmes.</p> <p>It is imperative that NESO, TO’s and DNO’s have adequate timelines to undertake the required network analysis to deliver the ‘Gate 2 to whole queue’ exercise, factoring in the CP30 criteria to projects, and so would urge NESO to ensure realistic timelines are agreed as soon as practicable.</p>
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		<p>SPEN believe the Original proposal positively facilitates the applicable CUSC objectives (a), (b) and (d), through introducing the architecture for a gated process which facilitates higher barriers to entry, allocation of capacity for those projects most able to progress, greater coordination in network design and necessitating the development of further efficiencies within NESO and network companies.</p> <p>In addition, SPEN also believe that WACM1 positively facilitates the applicable CUSC objectives (a) and (b), and we would support the proposal to introduce a pause for NESO to publish a new capacity register prior to the Gate 2 to Whole Queue gated design process, to allow applicants to consider their application’s relative position in the queue and for the market to self-regulate.</p>
2	Do you have a preferred proposed solution?	<p><input checked="" type="checkbox"/>Original</p> <p><input checked="" type="checkbox"/>WACM1</p> <p><input type="checkbox"/>Baseline</p> <p><input type="checkbox"/>No preference</p> <p>SPEN believe that both the original solution and WACM1, which is a slight improvement on the Original solution, would better facilitate the applicable objectives in comparison with the baseline, and we would be supportive of either solution in relation to CMP435. However, we believe work outside the scope of CMP435, such as the alignment with CP30 and development of the defined methodologies are key to delivering the broader Government CP30 and Net Zero targets. WACM1 is aimed at NESO publishing the data to ensure that customers can make informed decisions. Further clarity for embedded projects is required.</p>
3	Do you support the proposed implementation approach?	<p><input checked="" type="checkbox"/>Yes</p> <p><input type="checkbox"/>No</p> <p>The implementation approach for CMP435 is closely tied to the implementation of wider reform proposals, in</p>

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		<p>particular CMP434 and connections alignment with CP30. The Authority will decide on these proposals in Q1 2025, with implementation to follow in Q2 2025. NESO will confirm the timing of both the Gate 2 to Whole Queue exercise (under CMP435) and the subsequent first Application Window (under CMP434) with no less than four weeks' notice.</p> <p>NESO has initiated the 'Implementation Hub' in which NESO, TOs and DNOs will coordinate and align the implementation of the reform proposals within our organisations. SPEN is strongly supportive of this development.</p> <p>SPEN feel that the proposals under CMP435, to apply the Gate 2 criteria and now CP30 pathways to the existing queue, is a necessary initial step laying the foundation for the ongoing connections process under CMP434. However, CMP434 introduces the architecture on which the other TM04+ reform proposals are built on and so we cannot pause implementation of CMP434 because of prioritising CMP435. CMP435 represents a significant, and what we consider to be one-off, intervention to address the excessive connections queue of over 700GW.</p> <p>The implementation approach as outlined in the workgroup report is inadequate for a proposal of this size and significance. However, as a network owner and operator we are strongly supportive of NESO's Implementation Hub which must urgently address this issue.</p> <p>The details, as set out in the workgroup report, include an Authority decision date of Q1 2025 and an implementation date of Q2 2025. In addition, the recent DESNZ and Ofgem Open Letter confirms Government's desire for initial offers, under Connections Reform (if approved), to be issued to customers as early as possible, but no later than the end of 2025. In the context of this request and the significant workload on NESO, TOs, DNOs and stakeholders in developing the proposals to date, we</p>
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		<p>would urge Ofgem to confirm their expected decision date and subsequent decision as early as possible.</p> <p>In taking their decision the Authority must be mindful of the NESO, TOs and DNOs implementation plans and not unduly undermine that preparation, either in the timing of implementation or their proposal.</p> <p>In addition, adequate time is required for stakeholders and developers to understand the decision and prepare. Both are required to ensure the best possible chance of complying with the Government’s proposed timeline.</p> <p>In as little as four months, between the end of this period of intense consultation and the Authority decision date, the NESO and network companies will need to overhaul and align their systems and processes to prepare for a move from a continuous application process to one which is batched, and the undertaking of the largest and most significant network design exercise undertaken in GB. The activities to be undertaken include (but are not limited to):</p> <ul style="list-style-type: none"> • Mapping the process and drafting of the necessary STCPs • Data management • Aligning securities with the reform exercise <p>The successful implementation of this proposal will only be possible if critical resource within the TOs and DNOs connections teams are freed from the ongoing workload associated with connections applications to design, implement, and be trained on the new processes and procedures. The ‘transitional arrangements’ for Connections Reform have not resulted in a ‘level-playing field’ with directly connected customers receiving transitional offers, whilst embedded applications and modified applications (mod-apps) continue to receive full connection offers. SPEN therefore calls for a stop to the processing of all directly connected connections applications, embedded connection applications, material and ‘significant’ modification applications from 1st January 2025.</p>
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		<p>Finally, we would like to emphasise a need, now more than ever, for a clear and coordinated programme that Ofgem, NESO and network companies can agree upon to facilitate the successful implementation of this proposal. We will support NESO’s ‘Implementation Hub’ in this mission. However, the resources we will be able to provide to the work of the Hub, will be dependent on whether the current connections applications process is paused. If not, the resources which could have been re-directed to the work of the Hub, will still be required to support the ‘business as usual’ connections applications process.</p>
4	Do you have any other comments?	<p><u>Element 1 – Methodologies</u></p> <p>SPEN remain supportive of the Methodologies sitting outside of the codes with the requirement that the current consultation process is concluded and each Methodology is approved by the Authority. They add flexibility to the TMO4+ arrangements where it remains uncertain what unintended consequences and behaviours reform could drive. It also brings further clarity to the connections process for all stakeholders. However, this is only possible where there is a clear split between the role of the Codes and the Methodologies.</p> <p>We consider it important that the Methodologies are given time to support the process and that future updates and consultations are aligned with the application windows. It will also be important to be clear on which versions of the methodologies apply to which windows.</p> <p><u>Element 13. Gate 2 Criteria Evidence Assessment</u></p> <p>The new methodology places extra workload and risk on the DNO given that the DNO will be responsible for all the Gate 2 checks, CP30 alignment checks and a network design assurance that the distribution network would enable any advancement requests whilst meeting the NESO timescales. This will increase a risk</p>

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	<p>to the DNO as it could face legal challenge rather than this falling within NESO.</p> <p><u>Element 19. Contractual Changes.</u></p> <p>Within Element 19, where a project is classed in Group 2 (Projects have met the Gate 2 criteria and do not request advancement), the intention of the code modification is to update the Existing Agreement, via a Modification Offer, with no modification application fee being charged. A significant level of network analysis of these projects will be required when carrying out the Gate 2 to Whole Queue network design process, given this is a rework of SPEN’s contracted network background. It is unclear from the workgroup report, Code Administrator Consultation and the draft legal text where the funding of these tasks will come from for this entire network design exercise.</p> <p>When the working group agreed to include an advancement fee, it did not consider alignment with CP30. For those projects which currently have a post 2035 connection date, but could align with CP30, they will have no choice but to request advancement and pay this fee as they have no opportunity to be considered in the CNDM unless they do so.</p> <p><u>Element 20. Transitional Arrangements and Cutover Arrangements.</u></p> <p>As it will not be possible to have the current process and the proposed new process running in parallel over the implementation/Go-live period, we are fully supportive of the requirement for all projects to have signed their agreements to be ‘<i>existing agreements</i>’ ahead of the implementation date. This should be urgently addressed so that no projects (new or mod apps) are in flight when the Gate 2 to Whole Queue Application window opens. We recognise that whilst the Cutover date is defined within the legal text it does not include a specific calendar date and the actual dates, for the Cutover date, need be shared with stakeholders</p>
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		<p>well in advance of the Authority’s decision to approve this modification (if that occurs).</p> <p><u>Other comments</u></p> <ul style="list-style-type: none"> • The treatment of securities is currently being developed and is not included within the CUSC for embedded projects. There is an Implementation Hub workgroup progressing work in this area. • The CUSC and legal text whilst defining the process needs more clarity for embedded projects, such as in relation to the proposed pause under WACM1. In addition, it needs to be clearer in the legal text that Gate 1 does not apply to some embedded projects. • Under the CNDM methodology 4.2.3 there is reference to the date the Project Progression is countersigned by NESO as part of the criteria for CNDM Assessment. SPEN strongly believe that this should not be used as a criteria assessment due to the varying response times from NESO particularly in relation to the Step 2 process and the delay in receiving acceptable BCA Agreements back has meant that the original queue order has been changed. <p><u>Legal Comments (all from the Original Proposal)</u></p> <ul style="list-style-type: none"> • <u>Reference 18.5.1 and 18.5.7:</u> We wonder if 18.5.1 and 18.5.7 are inconsistent with each other. Either it should be that only where an application is triggered by an Embedded Power Station renders that an Existing Agreement or it doesn’t. I think perhaps the final sentence in 18.5.7 should include an additional “not” and therefore read “For the avoidance of doubt, a Bilateral Connection Agreement (or Modification or variation to it) with an owner/operator of a Distribution System and any associated Construction Agreement are not Existing Agreements where such agreements are not
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		<p>triggered by one or more Embedded Power Stations”.</p> <ul style="list-style-type: none"> • <u>Reference 18.8.2</u>: Anybody with a Transitional Offer will have paid a minimum application fee. The intention is that they would have to pay a full application fee at the Gate 2 point to progress. 18.8.3 states that a Modification Application fee would be required. It appears from the legal text that this fee would be the same for an advancement or a Transitional Offer upgrade. We think it is important to make it clear that those with a transitional offer will need to pay for a full application. • <u>Reference 18.9a.1</u>: This should refer to projects getting a "Gate 1 Existing Agreement" rather than a "Gate 1 Agreement". • <u>Reference 18.10.1.1</u>: missing bracket “)” at the end of the sentence. • <u>Reference 18.10.1.1</u>: "Declarations" as a defined term should be "Readiness Declarations". • <u>Reference 18.16.1</u>: Un-embolden "for a" in the line 'triggered by Embedded Power Stations and the Existing Agreements for a Project with the Embedded Power Stations'. • <u>Reference 18.16.2</u>: What is the "equivalent of a Gate 1 Agreement"? We think 18.16.1 is useful clarity for the treatment of embedded projects. However, there is uncertainty about what the “equivalent of a Gate 1 Offer” (as detailed in 18.16.2.1) will look like. The definitions make clear that only NESO can produce a “Gate 1 Agreement”. As such, it is not clear what the ‘equivalent’ would be. We suggest this should be set out in more detail in the legal text.
5	Do you agree with the Workgroup’s assessment that the modification does not impact the Electricity Balancing Regulation (EBR) Article 18 terms	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <hr/> <p>No further comments.</p>

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