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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](mailto: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.

Please be aware that late responses will not be accepted.

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

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<b>Phone number:</b>	Click or tap here to enter text.	
<b>Which best describes your organisation?</b>	<input type="checkbox"/> Consumer body <input type="checkbox"/> Demand <input type="checkbox"/> Distribution Network Operator <input type="checkbox"/> Generator <input type="checkbox"/> Industry body <input checked="" 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 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 type="checkbox"/> b <input type="checkbox"/> c <input checked="" type="checkbox"/> d
		WACM1 <input checked="" type="checkbox"/> a <input type="checkbox"/> b <input type="checkbox"/> c <input checked="" type="checkbox"/> d
		<p>The original proposal sets out to improve the GB connections process via the introduction of a batched connection application process, moving to a “first ready, first needed, first connected” approach to progressing connections to the GB Transmission and Distribution Systems.</p> <p>The consulted upon CUSC changes are but one element of the overall package of proposals. The precise mechanics of how many of the elements of CMP434 and 435 are to be implemented are to be set out in methodologies separate to the CUSC. At the time of responding to this consultation these methodologies are being consulted upon in their first draft form and so are not finalised.</p> <p>Because the original solution is heavily dependent on these methodologies, it is somewhat hard to make a definitive judgement on whether the CUSC proposals in isolation better facilitate the</p>

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		<p>applicable CUSC objectives or otherwise. We therefore set out our assessment below with this very important caveat.</p> <p>In our opinion the following objectives are facilitated by the original solution and WACM1:</p> <p><b>Objective (a): Positive</b></p> <p>The Original proposal broadly mirrors CMP434 (see our comments against that modification) and addresses inefficiencies in the current queue by applying Gate 2 criteria to existing contracted projects. This approach is helpful in prioritising viable and ready projects. The realignment of queue and meeting the readiness criteria means the proposal supports strategic alignment with objectives of CP 30 and Net-Zero.</p> <p>However, its reliance on Gate 2 Criteria Methodology in the Connection Network Design Methodology (CNDM), both still under development, introduces significant uncertainty. If these methodologies fail to provide clarity / consistency, the proposal’s effectiveness will be undermined. We are also conscious that Project Designation may include projects critical to security of supply or system operation; this is particularly important to ensure that this methodology is clearly defined to ensure that existing appropriate projects are assessed correctly as part of the implementation of this CUSC change.</p> <p>We believe the inclusion of the Connection Point and Capacity Reservation will help the Original proposal better facilitate applicable objective (a). This belief is not without caveats. We remain concerned that the process is not sufficiently defined, and this carries significant risk as CMP435 will be addressing a significant number of projects. For example, the legal text does not set out key principals around NESO reaching decisions regarding Connection Point and Capacity Reservation, and the associated bilateral discussions around the minimum reservation period within the ‘conditional clause’.</p> <p><b>Objective (b): Neutral</b></p> <p>The original proposal introduces a readiness-based mechanism which will prioritise projects that can more quickly connect over those that cannot, or potentially are entirely speculative. As these criteria are not contained within the CUSC we cannot at this stage say whether this prioritisation will benefit competition as it cannot be ascertained whether appropriate projects will be prioritised or relegated.</p>
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		<p>If these methodologies are not carefully designed, they may in turn create risk and uncertainties, including investment risk, inequitable competition, administrative inefficiencies and possible legal challenges. Any of these outcomes would in fact frustrate competition and go against applicable objective (b)</p> <p><b>Objective (c) : Neutral</b></p> <p>We do not believe there is an impact.</p> <p><b>Objective (d) : Positive</b></p> <p>Original facilitates the initial batched processes to re-assess existing projects will ultimately lead to more efficient administration and allocation of capacity; however, the process is complex and the application of the methodologies (which has not been considered) carries risks that existing viable projects will be either removed from the queue or choose to withdraw.</p> <p><b>Workgroup Alternative CUSC Modifications (WACM1)</b></p> <p>WACM 1 – Better facilitates objectives (a) and (d) than the Baseline. It is slightly better than the Original relating to objective (b), and is hence supported as a preferred solution. See our response in section 2 below.</p>
2	Do you have a preferred proposed solution?	<p><input 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>We believe that WACM1 is a better solution applied to existing contracted background. It is a stronger proposal in terms of market dynamics and competition facilitation better facilitating objectives (a) and objective (d) than the Baseline.</p> <p>It builds on the Original with introduction of a mid-process pause for market-self regulation allowing developers to assess their position in the queue; this will allow projects to decide if they wish to progress or drop out from the queue. If this process change is viable (from NESO perspective), then this will be slightly better than the Original at facilitating effective competition (objective b). However, this is only a small change on top of the Original. This will reduce the likelihood that projects will subsequently drop out, and</p>

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		<p>thus improves efficient discharge of obligations by aligning immediate needs and long-term strategic goals of Net – Zero and CP30.</p> <p>It further enhances the original by introducing market transparency though publication of Gate 2 compliance results. Developers gain insight into market status, allowing informed decision-making</p>
3	Do you support the proposed implementation approach?	<p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>
		<p>We neither agree nor disagree with implementation approach.</p> <p>The implementation approach for CMP434, CMP435, and CM095 are interlinked and should be considered together.</p> <p>These are complicated ‘urgent’ changes which were developed over a compressed timeline. There are a number of areas where detail is missing or partially complete, and there is an aggressive timescale that NESO and TOs have available to make changes to every connection agreement and many construction agreements (also see CMP434/CM095). We can foresee that there may be difficulties for NESO and TO teams during the implementation.</p> <p><b>Methodologies and other Changes</b></p> <p>We expect that Methodologies and guidance will be constantly changing. Furthermore, the potential additional Financial Instrument modification could interact with these CUSC modifications. Our consideration and comments in this response can only include what we know at present.</p> <p>We also believe that there should be specific identified review points where the implementation of these modifications alongside evolving methodologies, guidance, and any additional new modifications can be considered.</p>

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4	Do you have any other comments?	<p><b>Missing Detail e.g. Processes</b></p> <p>The process for some parts of this change have not been fully defined within the CUSC (nor elsewhere) e.g.</p> <ul style="list-style-type: none"> <li>a) how a bilaterally agreed minimum contractual reservation period will be agreed (Connection Point and Capacity Reservation), nor the detail or criteria for subsequent annual review at the end of this minimum period .</li> <li>b) when the above date cannot be agreed, what arbitration/challenge is possible rather than the wholly inappropriate situation where NESO merely withdraws Reservation? We outlined in our initial consultation response precisely why this could be up to 8.25 years for IC/OHA projects (subject to the final Gate 2 Criteria Methodology).</li> </ul> <p>It is the responsibility of NESO administration teams to ‘apply’ the CUSC, but there should be a process to identify gaps and ensure there is a flexible approach until these are resolved.</p> <p><b>Connection Point and Capacity Reservation</b></p> <p>In addition to missing details regarding the process, there is no clarity on the handling of ‘nodes’; we would welcome confirmation of the approach. Since Reservation includes the setting up of contractual agreements between NESO and TO (but not the developer), this would infer that nodes cannot be part of a Connection Point and Capacity Reservation process. We accept that this may not always be possible, but it would seem reasonable for NESO and TO’s to commit to clarifying any ‘node’ related reservations within as short a timescale as possible e.g. 6-12 months.</p>
5	Do you agree with the Workgroup’s assessment that the modification does not impact the Electricity	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

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	Balancing Regulation (EBR) Article 18 terms and conditions held within the CUSC?	
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