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:	Kimbrah Hiorns	
Company name:	EDF Energy	
Email address:	Kimbrah.Hiorns@edf-re.uk	
Phone number:	Click or tap here to enter text.	
Which best describes your organisation?	☐Consumer body ☐Demand ☐Distribution Network Operator ☒Generator ☐Industry body ☐Interconnector	☒Storage ☐Supplier ☐System Operator ☐Transmission Owner ☐Virtual Lead Party ☐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:

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 ☐a ☐b ☐c ☐d
		WACM1 ☐a ☐b ☐c ☐d
		See comments below.
2	Do you have a preferred proposed solution?	☐Original ☐WACM1 ☒Baseline ☐No preference
		We are supportive of the urgent need for reform to the connection process, and for the current connection queue to be reduced given the material barrier it presents to the timely connection of viable projects required to meet GB's security of supply and decarbonisation needs. However, we cannot support this Proposal in the form it has been put forward by NESO. Our key concerns:

1. In flight project risk – The draft methodologies as recently shared and enabled by this modification, could lead to the loss of confirmed connection rights for projects currently in construction or otherwise substantially mature. This is an unacceptable risk to the overall generation development market, and we strongly encourage the proposer to consider whether this uncertainty and disturbance is supportive of the good-value and low cost of capital generation market necessary for consumers. NESO should amend the scope of 435 to exclude in-construction projects, and assess whether to extend protection for those near-term commissioning projects, e.g. in 2027.

2. Unintended consequences – The methodologies have only recently been shared for public consultation, and we believe both industry and NESO need more time to fully work through the implications of the proposals and minimise the risk of unintended consequences from an expedited process.

3. Lack of final codification – The scale of the challenge, the speed in which the reforms are being implemented, and the inevitable mistakes arising from that, means that the proposed route of using methodologies outside of the CUSC process is potentially the appropriate balance between flexibility to make any necessary rapid changes and providing industry with some oversight. After the initial disruption of these reforms, we believe that legal certainty should be gained by codifying the methodologies within the CUSC. It would be potentially disruptive to industry's long-term investments to allow NESO to change the methodologies with reduced oversight as per the current proposed format.

4. Distribution code interactions – There is an incomplete workstream in delivering this proposal with respect to relevant D-code updates which may result in projects being less competitive due to the potential

		uncertainty; this may weaken investment signals in the market.
3	Do you support the proposed implementation approach?	☐Yes ☒No
		Whilst we agree with the urgent need to enact a reformed connection process and address the existing connection queue, we disagree with the implementation approach NESO has chosen to take. In order to provide the necessary legal certainty to facilitate Developers making confident investment and risk management decisions, it is crucial that this and the linked CMP434 process is codified in the Connection and Use of System Code (CUSC). Only basic principles are being proposed to be codified, with all the material detail on the new process being housed in a series of adjacent methodologies which are being authored by NESO exclusively and are subject to change. Whilst we sympathise with this implementation approach given the urgency of reform, it is pertinent that this process, which represents a fundamental change to how the industry operates, is given legal certainty by codifying the methodologies within the CUSC at the earliest opportunity.
4	Do you have any other comments?	We welcome the reformed connection process being set out by NESO. The existing process is not fit for purpose and has led to a significant number of speculative projects taking up space in the queue, presenting a significant barrier to the timely progression of viable projects. We believe it is crucial that the process is reformed and the size of the existing queue addressed to ensure GB is able to meet its security of supply and decarbonisation needs. As outlined above, we have a number of critical concerns with the current form of the Proposal that has been put forward. We would urge NESO and Ofgem to consider carefully both this and the wider set of reforms being considered

		including Clean Power 2030 alignment and a further financial instrument holistically, to prevent an investment hiatus occurring over the next year in light of the significant uncertainty and risk being introduced by certain elements of the proposals and the approach to development and implementation.
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?	☒Yes ☐No
		No comment.