

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 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

Respondent details	Please enter your details	
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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 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:

- 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.

Standard Workgroup Consultation questions	
1	<p>Do you believe that the Original Proposal better facilitates the Applicable Objectives?</p> <p>Mark the Objectives which you believe the Original solution better facilitates:</p> <p>Original <input type="checkbox"/>A <input type="checkbox"/>B <input type="checkbox"/>C <input type="checkbox"/>D</p> <p>We do not believe that the current proposal meets the objective of better facilitating effective competition.</p> <p>We are concerned that the current requirement for a forward-looking planning application which does not take into account a project’s energisation date, will result in unwarranted changes to normal project development even for viable projects. This is especially true for Town and Country planning which has a 3-year validity period and can’t be extended. A result of this is that a project with a connection date of 7+years from the Gate 2 offer will potentially have its planning expire before the project has started construction. Whilst this can be partially mitigated, it will bring significant extra unnecessary costs to projects on leases and sites works. Potential mitigations are laid out on Page 45 of the consultation document however these are currently not part of the proposal and have not been fully explained to understand their suitability.</p> <p>This requirement potentially disadvantages prudent, long-term Developers which have built a large portfolio stretching many years and will result in planning and environmental works that wouldn’t normally be done in the early stages of a project. We would strongly recommend using the recently implemented Queue Management milestones which are backwards looking from the connection date and take into account of the time period between offer and connection date.</p> <p>The potential technology change restrictions listed in Element 4 of the consultation are unclear and potentially impede normal project development where a single technology becomes a hybrid project without a change in TEC for example. We believe that this does not facilitate effective competition and may impede/restrict the development of renewable generation assets.</p>
2	<p>Do you support the proposed implementation approach? (See page- 57-58)</p> <p><input type="checkbox"/>Yes <input checked="" type="checkbox"/>No</p> <p>Currently there is a lot of uncertainty contained within the proposal. The timeline beyond the close of the consultation is not set at the time of drafting, with Transitional Arrangements presented to CPAG and CBD not widely known and understood.</p>

A Consultation on a proposal comprising of 20 Elements, open for 9 working days during the start of the English School Holiday period will restrict accessibility of the key information. More work is needed as part of the implementation approach to inform and prepare the industry.

We do not support the very short time between Authority decision and 435 implementation and effect on the existing queue. We recommend introducing a 6-month transition period to allow developers to appropriately respond to the final decision and legal changes in the CUSC. [This could be implemented by extending the self-certification deadline from 31st January 2025 to 30th June 2025 – i.e., 6 months between legal implementation and the first deadline].

In support of this proposal, we consider that:

- The final requirements are not confirmed until the decision by Ofgem, due in mid-December 2024. It is unreasonable to ask developers to take the risk of signing potentially non-compliant or excessively cautious/sub-optimal land agreements ahead of that decision. Finalising those commercial agreements will then take time with each landowner, which we believe can be reasonably achieved within a 6-month transition period.
- The purpose of the reforms is to, amongst other things, “*enable projects that are most ready to progress more rapidly to connection*”. A transition period supports this by allowing advanced projects currently very close to meeting the draft requirements (in line with their natural development cycle) to continue to progress without the asymmetric risk of losing expected connection points and incurring re-work costs due to a process and dates that were not known until very recently (and arguably are still not settled).

We have proposed 6 months as we believe this balances the needs of developers with Ofgem/the Government’s focus on rapid connection queue reform.

Key points areas of concern on the proposals more generally are shown below:

- Technology changes are a vital part of project development in order to optimise economics. It is currently proposed to include this within a separate draft guidance document however, the preferred solution to this proposal is for the criteria to be codified. If this is not codified, there is potential that this may be easily changed in the future without proper industry input.
- Restricting the extent to which Users can change their original boundary submission may have unintended consequences and result in genuine, viable projects having their connection agreement terminated or their capacity reduced by this policy implementation. This could lead to a cascade of projects being terminated that would otherwise have been viable.
- The process also runs the risk of unintended consequences due to the forward-looking planning approach and heavily restricting future planned development to which any responsible developer would consider.

	This period also coincides with the Christmas period in which many companies have a significant portion of their staff on leave.	
3	Do you have any other comments?	
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4	Do you wish to raise a Workgroup Consultation Alternative Request for the Workgroup to consider?	<input checked="" type="checkbox"/> Yes (the request form can be found in the Workgroup Consultation Section) <input type="checkbox"/> No
	Proposal to give an extended transition timeframe of a 6-month period to allow for current projects to fully align with the Gate 2 criteria.	

Specific Workgroup Consultation questions		
5	<p>Do you agree with the elements of the proposed solution for CMP435? <i>Please note that the application of these elements may be different to CMP434, therefore please answer the questions in respect to CMP435.</i></p> <p>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.</p> <p>Please provide rationale for your answer and any suggestions for improvement to each element?</p>	
	<p>Element 1: Proposed Authority approved methodologies and ESO guidance (see Page 8-10,29)</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	<p>Key documents and processes are not clearly defined, making it challenging to be in agreement with the content in Element 1. Accessing key information to determine the impact on normal project development is a key part of determining a proposals suitability.</p> <p><u>Codification & Guidance documents</u></p> <p>It is unclear as to the “appropriate” level of codification and there is a paragraph dedicated to outlining the lack of opportunity to propose alternatives. Sufficient time should be given to the industry to scrutinize the final proposed solution, lightly codified or not and then propose alternatives. The level of codification for this process is an important factor to take into consideration. Limited codification coupled with heavily defined guidance documents leaves the process vulnerable to future additional changes without industry having the ability to challenge these amendments.</p> <p><u>Process implementation prior to approval from the authority</u></p>	

<p>It is not acceptable to commence implementation of proposed process pending approval or to exclude finalized key documents.</p>	
<p>Element 3: Clarifying which projects go through the Primary Process (See pages 10-11,29-31)</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>The proposal is quite clear on which projects need to go through the primary process. This section would benefit from further clarification on this applying to both licenced and unlicenced iDNO connections.</p> <p>More guidance is required on significant modifications which we have highlighted in element 4 below.</p>	
<p>Element 5: Clarifying any Primary Process differences for customer groups (See pages 11-12,32)</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
<p>The following all sit outside of the TM04+ scope:</p> <ol style="list-style-type: none"> 1. Project Progression 2. Mod App 3. Appendix G 4. Technical Limits, 5. ENA QM Milestones <p>It is not transparent on how all of this will link together and therefore this may have the potential to disadvantage Distribution connections. This should be explored further as concluding the Appendix G or project progression process often takes years prior to de-risk.</p> <p>Concerns regarding the unintended consequences of this should be further explored and detail on how this will all be holistically coordinated.</p> <p>With regards to Offshore projects, the interaction between Gate 1 and future seabed leasing processes is currently unclear. It is not clear whether developers must secure Gate 1 in order to be eligible for a particular leasing round or if they would be disadvantaged if they chose not to. For example, if a developer anticipated applying for Gate 1 and 2 at the same time after a leasing round, would this disadvantage their position in the connection queue relative to others who had already applied for Gate 1?</p> <p>There are costs involved in applying for Gate 1, alongside uncertainty around the T&Cs and liabilities once it has been secured. If (for example) 20 developers apply for Gate 1 in anticipation of a new leasing round, all requiring Letters of Authority from TCE, but only three offshore wind leases to be awarded, the overall administrative burden would become large and costly.</p> <p>Given recent government announcements with respect to TCE and GB Energy, interactions between these proposals and the future framework for offshore development needs to be fully considered and rationalised.</p>	

<p>Element 8: Longstop Date for Gate 1 Agreements (See pages 12-13, 32-33)</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>We agree with the need for a Gate 1 longstop date in order to prevent projects remaining in Gate 1, potentially indefinitely, with no recourse to be removed.</p>	
<p>Element 9: Project Designation (See pages 14-15, 33-34)</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
<p>We do not disagree with the concept that is being proposed and that this concept is helpful in relieving network constraints in a timely manner.</p> <p>However, we do not believe that this element should form part of this CUSC modification proposal.</p> <p>The criteria on which this will be based is not part of this proposal and will be part of a separate consultation. We have very limited details of what will be included in this Project Designation criteria and how this will affect our portfolio and future projects.</p> <p>We agree with what was raised by the workgroup that this item is not vital to the proposal. This element would give the ESO significant powers to prioritise certain transmission connections without a dispute process if our projects were impacted negatively.</p> <p>We are also concerned that, as with many elements of the proposal, that the ESO does not plan to codify this within the CUSC.</p>	
<p>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)</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>We believe that the restrictions to building outside the red line boundary are unnecessary and the value of 50% of the TEC inside the red line boundary that can be built outside appears to be an arbitrary requirement. So long as the connection point and infrastructure remain unchanged, where the generation is built has no impact on the network.</p> <p>Technology/ economical restrictions on the developer, will mean that the generation has to be built within a reasonable distance and to appropriate codes/ standards.</p> <p>The requirement for forward planning milestone will result in planning and environmental works that wouldn't normally be done in the early stages of a project if a project has a connection date a significant number of years into the future. We do not agree with the ESO proposal of assuming that some of the land and planning work are done in parallel and therefore reducing the timescale for this milestone even further.</p> <p>Matters such as the duration and timing of some surveys, for example, are out of a developer's control. As an example, most breeding bird surveys are required to be carried out over two breeding/nesting seasons. The design of the planning proposal then needs to respond to the findings of the surveys and consultation feedback. Further, EIA applications can be complex and can protract the pre-application stage of preparing an application.</p> <p>One comment we have in respect of DCOs planning is whether the crucial date could not be when the DCO application is submitted, but when the applicant commences its</p>	

<p>preliminary discussions with PINS. This shows serious intent to deliver a project and may be more suitable than setting a deadline for submission of the application itself on the basis that DCO applications are complex, and it is perhaps unrealistic for anyone to assume that all DCO applications would be submitted within a set time period after Gate 2 Offer stage.</p> <p>We would recommend that measures similar to the recently implemented Queue Management milestones which were backwards looking from the connection date and took into account the time period between offer and connection date.</p> <p>Gate 2 criteria concept being codified but the actual Gate 2 criteria being in guidance makes it difficult for prospective connecting parties to challenge any disagreements legally if not completed correctly.</p>	
<p>Element 13: Gate 2 Criteria Evidence Assessment (See pages 22-23, 39-40)</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>No concerns with the process, outlining of the consequences of falsifying information should be clear. Sample checks are fine.</p>	
<p>Element 14: Gate 2 Offer and Project Site Location Change (See pages 23-24, 40-41)</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>We agree with the principle that this is required, should the Gate 2 substation be in another location than is applied for. There is concern that due to requiring to land/site boundary changes this therefore opens up further engagement/development work. In this instance we believe that the 12-month period is inadequate to resolve the issues, especially for technologies like onshore wind and solar due to large amounts of land required/ number of potential landowners to negotiate with. We recommend that a 24-month period time frame would be more suitable.</p>	
<p>Element 16: Introducing the proposed Connections Network Design Methodology (CNDM) (See pages 24-25, 41-42)</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
<p>Whilst we agree with the concept of the CNDM which will define the process of how the ESO and TO's assess our connection applications; the proposed introduction of the CNDM has so little detail that it is hard to assess.</p> <p>This is concerning due to the fact that if CNDM is not approved then it has the potential to delay the go-live date for this modification.</p> <p>It is concerning that the solution is not looking to be codified considering the implications of the ESO having the power for 'capacity reallocate' without it being on a first come first serve basis. We are unable to assess how this could be used by the ESO to potentially favour different technologies and affect the electricity market.</p> <p>More information is urgently required for industry to suitably assess ESO's proposal for CNDM and its suitability/ potential effects.</p>	

	<p>Element 19: Contractual changes (See pages 26-28, 43-46)</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>Contractual changes are needed in order to implement such a change. Further clarification is needed with regards to the details of how this will be approached. Examples of the details required prior to the process being endorsed include, but are not limited to distribution queue ordering, project substitution and capital cost reallocation.</p> <p>There is lack of clarity on TEC reductions which need to be understood. A full strategy covering details of how the compensation strategy should be implemented. Time frames for re-imbursements have exceeded the 2-year period on some projects, so it's imperative to detail and codify this workstream</p>		
	<p>Element 20: Cut Over arrangements (See page 28, 47)</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>In principle, we agree with the cut over arrangements section being included. There is, however, very limited detail in relation to cutover arrangements, the main concern being that the securities for 2024-25 are unclear. Placement of these securities has a significant cost and over securing should be avoided.</p> <p>Its also very unclear what would happen in the event customers drop away from a connection via a distribution arrangement and how this cost would then be apportioned to other projects.</p>		
<p>6</p>	<p>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 CMP434)? If yes, please provide supporting justification.</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<p>Restrictions on technology changes and site boundaries without a clear justification which risks restricting the project development cycle and could result in genuine projects either being terminated or designed sub-optimally (which is in breach of Objective A. efficient discharge).</p>		
<p>7</p>	<p>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.</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<p>Omissions of key documentation/further clarifications relating to the following:</p> <ul style="list-style-type: none"> a. CDNМ b. Project Designation methodology c. Significant change documentation 		

	<p>d. Detailed proposal on what's codified and what is not e. Full details of Key concepts with accompanying legal text</p> <p>We believe that the lack of detail and guidance on key elements means that the current proposal does not meet the requirement of a minimum viable product. Several key concepts are in guidance documents which may not be produced until after the implementation date and no legal text is available. Where guidance is available, it is a work in progress with items TBC.</p> <p>In order to meet the requirement of a minimum viable product we believe that the key concepts and details need to be fully described with accompanying legal text in order for industry to fully understand what is being proposed.</p> <p>These are so crucial to the function of the proposal that it is not acceptable to leave these ambiguous.</p>	
8	<p>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.</p> <p>-</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
9	<p>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?</p> <p>Any project in the future that does not align with NGESO internal strategic approach if the CDNМ is not published or is left open ended. It has the potential to favour technology types in the event one technology is favoured over another vs the economics.</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>