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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 cust.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 and catia.gomes@nationalenergyso.com or cust.team@nationalenergyso.com

Respondent details	Please enter your details	
Respondent name:	Nina Brundage	
Company name:	Ocean Winds	
Email address:	Nina.brundage@oceanwinds.com	
Phone number:	+44 7768227297	
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 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?	<p>Mark the Objectives which you believe the proposed solution(s) better facilitates:</p> <table border="1"> <tr> <td>Original</td> <td><input checked="" type="checkbox"/>a <input checked="" type="checkbox"/>b <input type="checkbox"/>c <input checked="" type="checkbox"/>d</td> </tr> <tr> <td>WACM1</td> <td><input checked="" type="checkbox"/>a <input checked="" type="checkbox"/>b <input type="checkbox"/>c <input checked="" type="checkbox"/>d</td> </tr> </table> <p>Click or tap here to enter text.</p>	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
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WACM1	<input checked="" type="checkbox"/> a <input checked="" type="checkbox"/> b <input type="checkbox"/> c <input checked="" type="checkbox"/> d					
2	Do you have a preferred proposed solution?	<p> <input type="checkbox"/>Original <input type="checkbox"/>WACM1 <input type="checkbox"/>Baseline <input checked="" type="checkbox"/>No preference </p> <p>We do not have a specified preference between the Original proposal and WACM1. However, both the Original proposal and WACM1 are preferred over the baseline.</p>				

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3	Do you support the proposed implementation approach?	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>We do support the proposal, however we think that the implementation date should be set so that all ScotWind projects that were included in the Holistic Network Design (HND) and Beyond 2030 reports can be issued with post-HND Agreements to Vary (AtVs) and be allowed the CUSC-standard timescales for acceptance of those AtVs. The majority of ScotWind projects have “holding agreements” that provide indicative connection locations and dates. Despite the HND being published in July 2022, most of these projects have not been issued with post-HND AtVs to reflect the recommendations in the HND. NESO should be required to issue all those AtVs now to allow the 3-month review and acceptance period so that those agreements become Existing Agreements prior to the EA Cut Off Date. If NESO cannot issue all those AtVs in time to allow the 3-month review and acceptance period prior to the EA Cut Off Date, then the implementation date should be delayed from Q2 2025 until such date that enables NESO to meet these requirements.</p> <p>We have reviewed the proposed Connections Network Design Methodology (CNDM) and note that it contains at section 5.13 “Holding agreements in the revised queue”. This confirms that NESO is aware of the issue that we have outlined above. We will respond to the consultation on the CNDM to raise the point that while the approach presented appears to be pragmatic, we are concerned that it does not align with the CUSC legal text presented in this modification CMP435. Therefore, we propose the approach as outlined above.</p>
4	Do you have any other comments?	<p>Ocean Winds remains concerned that a significant scope of the Connections Reform Methodologies will sit outside of the CUSC. This dilutes the content of the CUSC and means that key processes that will have a</p>

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		<p>significant impact on Users will not be subject to standard CUSC governance procedures. This is especially concerning given that the proposed licence changes that will put the obligations on NESO to maintain and consult on methodologies have not yet been published by Ofgem for public review and consultation. While we understand that NESO is running a host of consultations related to Connections Reform in parallel, the lack of clarity on licence changes could have a material impact on the long-term efficacy of this proposal.</p> <p>Additionally, the majority of ScotWind projects have “holding agreements” that provide indicative connection locations and dates. Despite the Holistic Network Design (HND) being published in July 2022, most of these projects have not been issued with post-HND Agreements to Vary (AtVs) to reflect the recommendations in the HND. This is more than a 2-year delay to when NESO originally said it would issue the AtVs. NESO should be required to issue all those AtVs and allow the 3-month review and acceptance period prior to the EA Cut Off Date. This is to allow the projects that have been waiting over 2 years to get an AtV to have their HND recommendation is reflected in the Existing Agreement. If NESO cannot issue all those AtVs in time to allow the 3-month review and acceptance period prior to the EA Cut Off Date, then the implementation date should be delayed from Q2 2025 until such date that enables NESO to meet these requirements.</p> <p>We have reviewed the proposed Connections Network Design Methodology (CNDM) and note that it contains at section 5.13 “Holding agreements in the revised queue”. This confirms that NESO is aware of the issue that we have outlined above. We will respond to the consultation on the CNDM to raise the point that while the approach presented appears to be pragmatic, we are concerned that it does not align with the CUSC legal text presented in this modification CMP435. The proposed definition of Existing Agreement does not</p>
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		<p>appear to provide the flexibility or discretion for NESO to decide that different agreement terms should be considered within the Gate 2 to Whole Queue Assessment. Furthermore, the CNDM provides no definition as to what a “holding agreement” is so it is not clear what agreements this will apply to. Therefore, we propose that it would be fairer and more transparent for ScotWind projects to have their HND recommendation reflected in their Existing Agreement prior to the Gate 2 to Whole Queue Assessment.</p>
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?	<p><input checked="" type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p> <p>Click or tap here to enter text.</p>