Public

CUSC Modification Proposal Form

CMP451:

Suspending TNUoS payments when TOs and / or NESO have delayed connection date

Overview: The current TNUoS rules require a full year of TNUoS payments even if the connection is made part way through a year Where a delay to connection date arises due to failure by the TOs and / or NESO to deliver capacity on time, it is not reasonable for a generator to be charged a full year TNUoS where capacity and energisation has been delayed.

Modification process & timetable

1. **Proposal Form** 19 February 2025
2. **Workgroup Consultation** 16 April 2025
3. **Workgroup Report** 09 June 2025
4. **Code Administrator Consultation** 24 June 2025
5. **Draft Final Modification Report** 04 July 2025
6. **Final Modification Report** 04 July 2025
7. **Implementation** TBC

Status summary: The Proposer has raised a modification and is seeking a decision from the Panel on the governance route to be taken.

This modification is expected to have a: Medium impact
Generators, Transmission System Operators, Transmission Owners

Proposer's recommendation of governance route	Urgent modification to proceed under a timetable agreed by the Authority (with an Authority decision)	
Who can I talk to about the change?	**Proposer:** Neil Young Neil.young@brockwellenergy.co.uk 0131 370 0000	**Code Administrator Contact:** Cusc.team@nationalenergyso.com

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What is the issue?

The Connection and Use of System Code (CUSC) requires a user to pay a full year's TNUoS (Transmission Network Use of System) charge even if they are only connected for 1 day of that charging year. This definition has been in the CUSC for some time. However, Brockwell (the proposer) have recently suffered 10 months of delay caused by SPEN and 2 months of delay caused by NESO. Brockwell therefore face paying a year of TNUoS but will only be connected for 2 weeks and therefore will only have 2 weeks of revenue.

Why change?

In these circumstances, it is inappropriate that SPEN should be rewarded for a failure to supply transmission capacity. It is also inappropriate that NESO's systems are further delaying connection to the transmission system. CUSC should be amended to stop generators being penalised from delays arising from the TOs and / or NESO.

North Kyle is a wind generator of 220MW in Scotland. Hence, the power station is a key element of the Government's drive to CP30. The consequences of SPEN and NESO delays is that the Power Station will be billed £1.3m of TNUoS charges, to be set against the expected revenue of £400,000 during that period, thereby confirming an immediate loss to the generator. The project has no way to recoup the charges or the lost energy revenues.

The site signed a BCA (Bilateral Connection Agreement) in 2019 with an original connection date in April 2024 (for 212 MW). The TO (Transmission Owner) (SPEN) altered the program in April 2023 moving the connection date to August 2024 and restricting initial TEC to 79MW. SPEN then had supply chain issues, moving the connection in June 2024 to December 2024. There were then issues with a switchgear building, so SPEN moved the connection date again in October 2024 to February 2025.

The project was aiming to make NESO's January 2025 SORT Static Configuration cut-off and had followed the process as it has been historically implemented. However, a change of approach by NESO as to how the criteria are applied has meant that the cut-off date was missed in January, so NESO delayed the energisation date from February to mid March 2025. So, in total the project suffered 4 delays outside its control making the connection almost a year later than included in the original connection offer. In addition, the second stage of the project, to the full 212MW, has slipped from April 2024 to July 2025. This second stage slippage also has an adverse commercial impact, although the focus of this proposal is the first stage delay.

At every stage of this connections process we have tried to work with SPEN to stop all of these slippages. We have then tried to work with NESO to bring forward the energisation date, as we believe their lack of flexibility is unjustified. However, it was only very recently we found NESO could / would not move the date, leaving us in the position we are now in. While the SPEN delays were unfortunate, we would have accepted the implications of a late delivery with respect to the TNUoS charges had we been able to energise in February. However, this latest delay – a combination of SPEN and NESO delays – makes it uneconomic for North Kyle to connect in March.

Ofgem is well aware of the connections issue, saying this is a top priority for them. However, we do not believe that it can be justifiable for a party to pay a year of TNUoS, for 2 weeks using the system, for a project that has been delayed by a year by the monopolies that Ofgem regulate. This situation – arising from the latest delays – was therefore both unforeseen and has an even greater commercial impact than some of the original delays (which as we have explained, we were prepared to accept).

What is the proposer's solution?

The CUSC drafting should allow charging of TNUoS from the date that the connection is energised, not from the start of the charging year. We note that this would have no effect on the TOs' revenues as any short fall against forecast revenues would flow into the correction factor.

We note that CMP445 "Pro-rating first year TNUoS for Generators" is proposing a similar solution in that TNUoS charges are pro-rated by the percentage of the year that a generator is connected. Ofgem refused an urgency request on the basis that the user knew about the definition of charging date and was therefore not related to an imminent or current issue that, if not urgently addressed, may cause a significant commercial impact. As such, Ofgem said that the definition of the charging year is "well established and eminently predictable".

We disagree with Ofgem's view on this point under the circumstances faced by this generator and note the coincidence of 2 large wind farms having their connections delayed in Scotland. The fact that the charging definition is well-established and predictable does not avoid that definition having an imminent commercial impact. While the solution to this defect in CMP445 is similar to that being sought by this modification proposal, the rationale and definition is different. That is, the relief sought by this proposal is directly related to the failure of the TO and NESO to make this connection. As such, the solution being proposed is narrower than that proposed in CMP445.

In this case, failure to make the change proposed in this modification proposal will have one of two impacts. Either the generator will have to pay a TNUoS charge of £1.3m for access to the system for 2 weeks, with delays caused by SPEN and NESO. Alternatively, the generator will defer connection of a wind farm to the grid, having a negative impact on competition, the production of renewable electricity and the ability to earn energy revenue to try and offset the costs caused by the monopolies to date. A delay to green generation being connected due to the actions of SPEN and NESO would seem go against all of the Government's and Ofgem's energy policy goals, to connect more renewables faster.

Urgency is justified on the fact that the TNUoS bill, should North Kyle be allowed to energise the connection, will become due. It was only on 9 February that NESO explained that we would not be allowed to connect due to NESO's system being updated only every 2 months. This hardly seems consistent with NESO's view "that to achieve clean power by 2030, a once in a generation shift in approach and in the pace of delivery is required" (Fintan Slye in NESO's CP30 Advice to HM Government in December 2024)

Prior to that SPEN had delayed the connection not once, but three times. The connection that was due on April 2024 is now due in March 2025 (50 weeks late), with the second stage even later. While we accept that the charging rules, while unfair, were clear, we did

not expect to end up in the commercial position we have. Ofgem has previously noted that they are interested in the idea of networks paying for or being penalised for late connections, but this is the exact opposite, the generator is being penalised for the failure of SPEN and NESO.

Further the charging of TNUoS is meant to be in some form cost reflective. It is not clear that allowing the TOs to charge for the provision of a service where that service is not available, for reasons under their own control, can be seen as cost reflective.

Allowing transmission charges to be charged only when energisation has occurred would be consistent with the Capacity Market Rules where the longstop date can be extended if the inability of a generator to reach the longstop is due to delays in connection by the TOs or DNOs. This CUSC proposal would introduce a similar level of protection.

Draft legal text

Adjustment of Paragraph 14.18.19 of the CUSC to make clear that the monthly charge derived from TEC should only charged for those months when the TEC was available to developer, where any delay was due to the actions or inactions of the TOs and / or NESO. The legal text for this proposal would need to be further developed by a Workgroup.

What is the impact of this change?

Relevant Objective	**Identified impact**
(a) That compliance with the use of system charging methodology facilitates effective competition in the generation and supply of electricity and (so far as is consistent therewith) facilitates competition in the sale, distribution and purchase of electricity;	**Positive** Ensures that generators are not penalised due to the actions or inactions of the TOs and / or NESO. As such, generators would be able to connect earlier and this will facilitate effective competition.
(b) That compliance with the use of system charging methodology results in charges which reflect, as far as is reasonably practicable, the costs (excluding any payments between transmission licensees which are made under and accordance with the STC) incurred by transmission licensees in their transmission businesses and which are compatible with standard licence condition C11 requirements of a connect and manage connection);	**Positive** It is not reasonable that the TOs receive revenue when they have not provided the relevant service, being the delivery of Transmission Entry Capacity. As a result, the

	TOs tariffs are reflecting the costs of not providing a service. We do not believe that this is cost reflective – or provides reasonable incentives upon the TOs to deliver capacity on time. It is not cost reflective to charge for a year of system use if the generator cannot use the system.
(c) That, so far as is consistent with sub-paragraphs (a) and (b), the use of system charging methodology, as far as is reasonably practicable, properly takes account of the developments in transmission licensees' transmission businesses and the ISOP business*;	**Positive** Allowing the TOs to charge only when they provide TEC would more properly take account of developments in the licensees' transmission businesses.
(d) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency **; and	**Neutral** No obvious impact
(e) Promoting efficiency in the implementation and administration of the system charging methodology.	**Positive** Charging for TEC when delivered would incentivise the TOs to deliver capacity on time.

** See Electricity System Operator Licence*

***The Electricity Regulation referred to in objective (d) 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.*

Proposer's assessment of the impact of the modification on the stakeholder / consumer benefit	
Stakeholder / consumer benefit categories	**Identified impact**
Improved safety and reliability of the system	**Neutral** We do not see an impact on the safety and reliability of the system.
Lower bills than would otherwise be the case	**Positive** Greater competition should reduce bills to consumers. The amount of transmission revenue is not affected as we believe the TOs will still receive their allowable income.
Benefits for society as a whole	**Positive** Allowing the TOs to charge for TEC only when it is delivered should provide greater investment certainty in that the impacts of TOs' and NESO's delays would be mitigated to a degree. Clearly, the fact that the TOs and NESO combine to delay a connection does not make up the lost revenues of that developer. Another generator on the bars will also add to competition.
Reduced environmental damage	**Positive** Delaying the connection of this windfarm will delay the positive impact on the environment of that wind farm. This proposal, if approved, would allow North Kyle windfarm to be connected as soon as possible. As such, approval of this modification would accelerate the move towards CP30 targets and net zero targets.
Improved quality of service	**Positive** Incentivising the TOs to deliver a connection on time should improve the quality of service provided by the TO's and / or NESO.

When will this change take place?

Implementation date

As soon as possible given the impending connection date and therefore billing date

Date decision required by

As soon as possible.

Implementation approach

Given the recent notification by NESO of a further delay to connection, we acknowledge that it may not be possible for the Authority to reach a decision prior to the charging date. We therefore request that, if the modification is approved, implementation date should be set as taking effect prior to the charging date. We note Ofgem's comments on retrospectivity but consider that the commercial impact of the full year charging for part year provision to be significant enough to justify a small element of retrospectivity. In any event, the simplicity of this proposal should allow a timely decision by the Authority. We note that CMP425 was implemented with retrospective implementation.

Proposer's justification for governance route

Governance route: Urgent modification to proceed under a timeline agreed by the Authority (with an Authority Decision)

Ofgem guidance, December 2024

" Our current view is that an urgent modification should be linked to an imminent issue or a current issue that if not urgently addressed may cause:

a. A significant commercial impact on parties, consumers or other stakeholder(s) or

b. A significant impact on the safety and security of the electricity and/or gas systems or

c. A party to be in breach of any relevant legal requirements."

"The imminent issue may be date related"

In the proposer's view, the full year payment of TNUoS will have a significant commercial impact on Brockwell - £1.3m - and the imminent issue is date related, being 19 March 2025. We expect that other projects are being similarly delayed – hence the proposal under CMP445 – but we are not able to quantify this impact.

NESO's refusal to register the connection was "exceptional and unforeseeable", setting this proposal apart from CMP445. The recent acknowledgement by NESO that they would take 2 months to make the system changes necessary to connect the wind farm means that connection – in March 2025 – will trigger a year of TNUoS charges. This therefore is an imminent commercial impact, in a way that could not have been foreseen. As such, we consider that urgency is justified.

Guidance on governance routes

Timescales	Route	Who makes the decision (Governance type)
Normal	Proceed to Code Administrator Consultation*	Authority (Standard Governance) or Panel (Self-Governance)
	Assessment by a Workgroup**	
Urgent	Proceed to Code Administrator Consultation	Authority (Standard Governance)
	Assessment by a Workgroup	
Fast-track	Straight to appeals window, then implementation	Panel (Self-Governance)

* This route is for modifications which have a fully developed solution and therefore don't need to be considered by a Workgroup.

** For modifications which need further input from industry to develop the solution.

Self-Governance Criteria

It depends on the material effect of the modification as to whether it should be subject to Standard or Self-Governance. If you are proposing that your modification should be subject to Self-Governance, you must explain how it meets the below criteria.
The modification is unlikely to discriminate between different CUSC Parties and is unlikely to have a material effect on:

- Existing or future electricity customers;
- Competition in the generation, distribution, or supply of electricity or any commercial activities connected with the generation, distribution or supply of electricity,
- The operation of the National Electricity Transmission System
- Matters relating to sustainable development, safety or security of supply, or the management of market or network emergencies
- The CUSC Panel's governance procedures or the CUSC Panel's modification procedures

Urgency Criteria

If you are proposing that your modification is Urgent, you must explain how it meets Ofgem's Urgent criteria (below). When modifications are granted Urgency, this enables the us to shorten the standard timescales for industry consultations. Note that the we (Code Admin) must seek Authority approval for this option.
Ofgem's current guidance states that an urgent modification should be linked to an imminent issue or a current issue that if not urgently addressed may cause:

- A significant commercial impact on parties, consumers or other stakeholder(s); or

- A significant impact on the safety and security of the electricity and/or gas systems; or
- A party to be in breach of any relevant legal requirements.

Fast-Track Self-Governance Criteria

This route is for modifications which are minimal changes to the code. E.g. Typos within the codes. If you are proposing that your modification should be subject to Fast-Track Self-Governance, you must explain how it meets the below criteria.
The modification is a housekeeping modification required as a result of an error or factual change, such as:

- Updating names or addresses listed in the CUSC;
- Correcting minor typographical errors;
- Correcting formatting and consistency errors, such as paragraph numbering, or;
- Updating out of date references to other documents or paragraphs.

Interactions

☐Grid Code	☐BSC	☐STC	☐SQSS
☐European Network Codes	☐ EBR Article 18 T&Cs[1]	☐Other modifications	☐Other

The proposal has interactions with CMP445. Nevertheless, the view of the proposer is that the imminent nature of the detriment arising from the defect, and the limited solution offered by the proposal, renders this proposal separate from CMP445.

Acronyms, key terms and reference material

Acronym / key term	Meaning
BSC	Balancing and Settlement Code
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CMP	CUSC Modification Proposal
CP30	Clean Power by 2030
CUSC	Connection and Use of System Code
DNO	Distribution Network Operator
EBR	Electricity Balancing Regulation
NESO	National Electricity System Operator
SPEN	Scottish Power Energy Networks

SORT	Static Configuration
STC	System Operator Transmission Owner Code
SQSS	Security and Quality of Supply Standards
TEC	Transmission Entry Capacity
TNUoS	Transmission Network Use of System
T&Cs	Terms and Conditions

Reference material

- CMP445 “Pro-rating first year TNUoS for Generators