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Email: james.stone@ofgem.gov.uk

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Delivered by email.

Dear Penny,

Decision on CUSC Modification Panel's recommendation for CMP452 'Suspension of TNUoS Payments for generators connecting during the 2024/25 charging year' to be treated as an Urgent CUSC Modification Proposal

On 27 February 2025, Brockwell Energy (the 'Proposer') raised Connection and Use of System Code (CUSC) Modification Proposal CMP452¹ (the 'Proposal'). The Proposer subsequently presented CMP452 to the CUSC Modifications Panel (the 'Panel') at its meeting on 4 March 2025, requesting that the Proposal be treated as an urgent CUSC Modification Proposal.

A further CUSC Panel meeting was held on 5 March 2025, and following the meeting, the Panel wrote to inform us² of its unanimous view that based on Ofgem's Urgency criteria,³ CMP452 should be treated as an urgent CUSC Modification Proposal,⁴ with all Panel members considering that there could be a significant commercial impact on parties, consumers or other stakeholder(s) if the Proposal were to not be treated as urgent.

¹ [CMP452: Suspension of TNUoS Payments for generators connecting during the 2024/25 charging year | National Energy System Operator](#)

² References to the "Authority," "Ofgem", "we", and "our" are used interchangeable in this document. The Authority refers to GEMA, the Gas and Electricity Markets Authority. The Office of Gas and Electricity Markets (Ofgem) supports GEMA in its day-to-day work. This decision is made by or on behalf of GEMA.

³ [Code Modification Urgency Criteria | Ofgem](#)

⁴ [CMP452 Request for urgency letter - 05 March 2025 | National Electricity System Operator](#)

We have considered both the Panel's and the Proposer's arguments in relation to urgency and have decided that CMP452 should not be progressed on an urgent basis. We have set out our reasoning below.

Background

The ongoing costs of the transmission network are recovered by Transmission Network Use of System (TNUoS) charges, which are recovered from licensable generators and demand users. Section 14.18.19 of the CUSC establishes that TNUoS is charged on a monthly basis, with TNUoS generation charges for each Financial Year based on a generator's Transmission Entry Capacity (TEC).

The CUSC does not explicitly set out how TNUoS generation charges are paid during the Financial Year in which a generator first connects (or subsequently reconnects) to the transmission network. However, the well-established operative process is that the National Energy System Operator (NESO) charges generators TNUoS for the full Financial Year in which their generation facility connects to the grid, regardless of whether they connect on day one or day 365 and as such, charges are not apportioned in relation to the connection date. The NESO applies the same interpretation for generators seeking to disconnect from the transmission grid.

This perceived issue is identified and described in both CMP445⁵ and CMP451⁶ the latter of which was rejected by the Panel on 24 February 2025.⁷ CMP445 is currently progressing via the industry open governance change process and seeks to address this perceived issue by 'clarifying' the apportionment of TNUoS generation charges for a generator in relation to when it connects or reconnects to the transmission network. If implemented as proposed, CMP445 would result in generators paying TNUoS only in respect to the part of the year during which they use the transmission system in the year of connecting, achieving this by pro-rating the annual TNUoS value from the Charging Date (ie the date of connection) to the end of the relevant charging year.

The Proposal

CMP452 seeks to amend the CUSC to permit any generator that has a connection date between 1 April 2024 and 31 March 2025 to formally request that it be considered (by the

⁵ [CMP445 Pro-rating first year TNUoS for Generators | National Energy System Operator](#)

⁶ [CMP451: Suspending TNUoS payments when TOs and/or NESO has delayed connection date | National Energy System Operator](#)

⁷ [Special CUSC Panel Headline Report 24 February 2025 | National Electricity System Operator](#)

NESO) not liable for outstanding TNUoS charges in respect of the 2024/25 charging year until (a) a decision has been made by Ofgem on CMP445, or (b) if prior to that, Ofgem makes a decision on another solution to the perceived issue identified by the CMP445 Proposal. The Proposal states that once a decision is made by Ofgem, the total outstanding TNUoS charges for the 2024/25 charging year will then be payable in the charging year during which the relevant decision(s) mentioned above have been taken, with any outstanding amount being spread equally across the remaining months in that charging year.

Urgency request

In its urgency request, the Proposer explained why it was requesting urgency, highlighting one of the three criteria set out in Ofgem's Guidance on Code Modification Urgency Criteria ('Ofgem's Urgency Criteria'): (a) A significant commercial impact on parties, consumers or other stakeholder(s).

The Proposer considers the Proposal should proceed under an urgent timeline on the basis that failing to introduce a 'suspension to TNUoS payments' would mean the Proposer, the Developer of North Kyle wind farm, Brockwell Energy, would face a significant commercial impact. The Proposer attributes this to the wind farm having its connection date moved from February to March 2025, which it was notified of by the NESO in January 2025. As a result of this delay and the operative process that the NESO follows in respect of TNUoS generation charges, the Proposer states that it will need to take the commercial decision to either pay more in TNUoS charges than it will generate in revenues for the 2024/25 charging year, or be required to seek a two-week delay to its connection date, until the beginning of the 2025/26 charging year.

The Proposer notes that an undetermined (but assumed by the Proposer to be small) number of other generators also have connection dates late in the 2024/25 charging year.

Panel view

The Panel considered the request for urgency with reference to the published Ofgem Guidance on Code Modification Urgency. At the Panel meeting on 5 March 2025, Panel members unanimously agreed to recommend to Ofgem the Proposal be progressed as an urgent CUSC Modification Proposal, though one Panel member indicated their vote was conditional upon the 'very ambitious' timeframes included as part of the urgency request being followed. The arguments for and against urgent treatment are set out in the letter from the Panel.

Panel members agreed with the Proposer that there may be a significant commercial impact on parties, consumers or other stakeholder(s) if the Proposal does not progress on an urgent basis, thus meeting Ofgem Urgency Criterion (a). However, one Panel member noted that the modification could have been raised in October 2024, when the connection date was moved to February 2025. Further, the Panel member noted that the commercial impact of moving from a February 2025 to March 2025 connection date appears to be small, as a full year of TNUoS charges would've been required to be paid regardless.

Another Panel member also stated that there are processes and options in place that the Proposer could have taken to mitigate paying a full year of TNUoS charges based on its connection date. However, the view that the Proposal could have been raised sooner was not shared by all Panel members.

Panel members noted that the timescales required to implement the modification to the satisfaction of the Proposer were very short, though not entirely unprecedented, as Ofgem had previously 'cleared a Network Code modification in three days'.⁸ One panel member stated that its recommendation on urgency hinged on the ability to meet the identified timescales, and that if this could not be achieved, the Proposal would fail to remedy the Proposer's issue and thus no longer meet the Ofgem Urgency Criteria.

Our decision

In reaching our decision on urgency we have considered the details within the Proposal, the justification for requesting urgency and the views of the Panel. We have assessed the request against the Urgency Criteria set out in our published guidance and in particular whether the Proposal is linked to an imminent or current issue that, if not urgently addressed, may cause a significant commercial impact on users.

We disagree with the Proposer that the Proposal meets the requirements set out in our Urgency Criteria. We note, as stated by the Proposer, that the question of how much TNUoS connecting or reconnecting parties pay in the first year of connection is currently being addressed through the CMP445 Proposal. However, the charging arrangements have not changed, and the practice of generators being required to pay a full year's TNUoS charges regardless of the point within the charging year they connect is well established and eminently predictable. Therefore, the value of the TNUoS charge for this specific

⁸ [P083 - Amendment To Process For Past Notification Errors | Elexon BSC](#). This Modification to the Balancing and Settlement Code, which extended the deadline for submission of claims under Modification P37 to ten business days, was implemented on 22 May 2002.

developer from a commercial perspective has also been unchanged and known for some time.

At the time of the urgency request and in reaching our decision, we have also considered whether the issue raised in the Proposal was foreseeable. Evaluating whether the Proposal could have been raised sooner and without the need for the urgency process helps us understand whether a matter is truly urgent. We note from the information provided to the Panel that the Proposer's connection date has been delayed on more than one occasion prior to raising this Proposal. In October 2024, the Proposer was notified that its connection date was delayed until February 2025. The Proposal was subsequently raised after the Proposer was notified of a further delay from February 2025 to March 2025. While a delay from one month to the next is unfortunate for the developer, this is not exceptional and based upon the information presented by the Proposer, it is unclear as to how the additional delay (between the 28 February 2025 to 19 March 2025 connection dates) would represent any more a significant commercial impact than that of the prior delay, which the Proposer accepted. We consider that the Proposer could have therefore raised this code modification Proposal at the very least in October 2024, potentially negating the need for a request for urgency.

We therefore do not agree that we should grant the Proposal urgency and disagree with the Panel that the modification should follow the urgent (rather than the standard) timetable set out in the Panel's letter. The rationale for rejecting this urgency request is consistent with that relied upon when rejecting the urgency request for CMP445 in December 2024.⁹

Finally, we would also draw attention to our 31 January 2025 open letter outlining 'Ofgem's approach to prioritisation of electricity transmission network charging modifications',¹⁰ specifically the need for industry to consider whether, and the extent to which, the interests of consumers would be furthered by the raising of any additional proposals in the short term and that moving forward we expected to scrutinise the urgency criterion further and apply it more strictly. Currently, there is significant pressure on industry, the NESO and Ofgem to deliver on a large number of code changes and wider reform to enable government policy within very short time frames. We wish to ensure there is sufficient resource across industry and Ofgem to deliver these changes to a high quality and are thus prioritising accordingly.

⁹ [Decision on CUSC Modification Panel's recommendation for CMP445 'Pro-rating first year TNUoS for Generators' to be treated as an Urgent CUSC Modification Proposal | National Electricity System Operator](#)

¹⁰ [Open letter: Outlining our approach to prioritisation of electricity transmission networking charging modifications | Ofgem](#)

For the avoidance of doubt, in rejecting the request for urgency, we have made no assessment of the merits of the Proposal and nothing in this letter in any way fetters our discretion in respect of the Proposal.

Yours sincerely,

James Stone

Head of Electricity Network Charging
Energy Systems Management and Security

Duly authorised on behalf of the Authority