

Workgroup Consultation Response Proforma**CMP288/289: Explicit charging arrangements for customer delays and backfeeds (CMP288) and consequential change (CMP289)**

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 **27 April 2022**. 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 Jennie Groome Jennifer.Groome@nationalgrideso.com or cusc.team@nationalgrideso.com

Respondent details	Please enter your details
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I wish my response to be:

(Please mark the relevant box)

☒ Non-Confidential☐ Confidential

Note: A confidential response will be disclosed to the Authority in full but, unless agreed otherwise, will not be shared with the Panel or the industry and may therefore not influence the debate to the same extent as a non-confidential response.

For reference the Applicable CUSC (non-charging) Objectives are:

- The efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence;*
- 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;*
- Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency *; and*
- Promoting efficiency in the implementation and administration of the CUSC arrangements.*

**Objective (c) refers specifically to European Regulation 2009/714/EC. Reference to the Agency is to the Agency for the Cooperation of Energy Regulators (ACER).*

For reference the Applicable CUSC (charging) Objectives are:

- 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;
- 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 C26 requirements of a connect and manage connection);
- 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;
- d. Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency *; and
- e. Promoting efficiency in the implementation and administration of the system charging methodology.

*Objective (d) refers specifically to European Regulation 2009/714/EC. Reference to the Agency is to the Agency for the Cooperation of Energy Regulators (ACER).

Please express your views in the right-hand side of the table below, including your rationale.

Standard Workgroup Consultation questions - CMP288		
1	Do you believe that the Original Proposal better facilitates the Applicable Objectives?	<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 <input type="checkbox"/> E</p> <p>Disagree with “What is the issue?” that explicit arrangements are required – we have experience of agreeing additional costs as a result of such User-initiated change with SHET and ESO, without problem.</p> <p>Looking for improved body of evidence – do not agree there is sufficient evidence that this proposal will better facilitate the applicable objectives.</p> <p>Looking for improved communication & transparency to allow all parties the option to take mitigating actions. Proposal is too one-sided.</p>
2	Do you support the proposed implementati	<p><input type="checkbox"/> Yes</p> <p><input checked="" type="checkbox"/> No</p> <p>No, need to allow for current charging disputes to be concluded. +(1-2)yrs.</p>

	on approach?	
3	Do you have any other comments?	<p>Better incentivisation of collaborative working (throughout development), better avoids the inefficient costs identified in the defect. Proposal is both insufficient robust, and insufficiently evidenced; it is furthermore unnecessary in its current form.</p> <p>We have experience of agreeing additional costs as a result of such User-initiated change with SHET and ESO, without problem. It was abundantly clear throughout this process that the best interests of progression aligned with reaching agreement on these costs, and there was no requirement for additional explicit charging arrangements.</p> <p>Explicitly:</p> <p><u>Shared Works</u> (cons p6) Needs to consider timing – whether works are progressed more or less compared to any of the Users – as well as MW. For example, largely complete works, mostly driven by other parties, could receive disproportionately large delay/backfeed charges, outwith the actual risk to delivery and use of asset for the TO.</p> <p>Also – what is actual risk of under-use of developed asset? Duty for the charge to be evidentially cost-reflective? What if the TO, even accidentally, had proceeded in a less-than efficient manner? As per top-line – prefer to incentivise collaborative working; nip issues in bud before festers.</p> <p><u>CUSC vs Charging Statement</u> (p7) Agree with “Some WG members” (mid-page-7) – if progressed, this should be in CUSC under open governance. Not in Charging Statement (for which Ofgem only approves form, not detail).</p> <p><u>methodology consistency</u> (p8) In our experience SHET has been able to provide adequate detail of costs and how incurred on a bilateral basis. See little to no benefit in trying to create further generic examples in the Charging Statement.</p> <p>Noting NGESO’s licence at Standard Licence Condition C7, prohibition on discriminating between users. Not evidenced that this proposal will be applied consistently across TOs.</p>

		<p>Again, to ensure consistency and appropriate oversight, proposal would better clearly define the charges within the CUSC, not in charging statements.</p> <p><u>Communicate & Transparency</u> Consultation suggests charges are applied at a last resort – how defined? how guaranteed? what is protection for Users?</p> <p>Timely & adequate sharing of information can prevent the charges being applied in the first place. Proposal would be improved by duty to collaborative working, perhaps with suggested minimum frequency of progress / (cost) programme meetings. Min quarterly.</p> <p>Where is the duty for clear and timely communication to User of material spend in relation to any connection?</p> <p>Where is oversight for ESO to ensure transparency be able to confirm the charge is correct before invoicing?</p> <p><u>Early Access Charge</u> Application of the charge comes from the user requesting a backfeed date before the 'efficient charging' date. But is the date consulted with the User? any duty on TO to agree with User? can be different on each site – unilateral view of "efficient charging date" likely to be inaccurate.</p> <p><u>Past Application of Charges</u> Consultation suggests inadequate protection, that such charges not explicitly being covered by initiating Users is instead covered by TNUoS. Can ESO provide any evidence of this? materiality? appears to be asserted without sufficient evidence. Again, our experience with SHET is that there is no defect, there was plenty of incentive to come to an agreement on such User-initiated costs.</p>
4	Do you wish to raise a Workgroup Consultation Alternative Request for the Workgroup to consider?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No N/A

Specific Workgroup Consultation questions – CMP288/289		
1	Are there other supporting commercial processes (either codified or not) which could impact successfully applying delay charges/backfeed charges which the Workgroup have not considered? Please explain how CMP288 may impact them.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No N/A
2	Do you have any comments in respect of the options set out for Shared Works?	<p>Further clarity on cost reflectivity is welcomed. Needs further evidence. Also, please consider:</p> <p><u>Shared works</u></p> <ul style="list-style-type: none"> If a user were to requests a delay and others have not. The investments would not be 'stranded' as it would have occurred to facilitate the other users. <p><u>Sole Use if TO delivery is imperfect</u></p> <ul style="list-style-type: none"> Users should not be penalised if a TO, accidentally or otherwise, has been less than efficient in delivery, with impact to costs; or if the TO has not acted with reasonable endeavours to mitigate waste (in programme or delivery). <p><u>Incurred Loss</u></p> <ul style="list-style-type: none"> All involved parties would need a comprehensive view on the actual resulting costs incurred and how this reasonably compares with an 'efficient' counterfactual, with User's taking liability only for the delta. There needs to be a duty on such charges to be evidentially cost-reflective. These points appear insufficiently addressed by the proposal as consulted.
3	Do you think the CMP289 modification	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

is required? If so, please provide your justification.	Not until suitable and well-evidenced CMP288 proposal is presented
<i>If you think CMP289 is required, please continue to answer the CMP289 Workgroup consultation questions.</i>	

Standard Workgroup Consultation questions – CMP289

1	Do you believe that the Original Proposal and WACM1/WAGCM1 better facilitates the Applicable Objectives?	Mark the Objectives which you believe the Original solution better facilitates:
		Original <input type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> E
		As above – No.
2	Do you support the proposed implementation approach?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
		N/A
3	Do you have any other comments?	N/A
4	Do you wish to raise a Workgroup Consultation Alternative Request for the Workgroup to consider?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
		N/A