

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
Respondent name:	Daniel de Wijze/Barnaby Wharton
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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><i>No, we are yet to see sufficient evidence that indicate the proposal will better facilitate the applicable objectives.</i></p> <p><i>RUK are of the view that Users should accept any costs incurred by the TO that are driven by their own actions. However, communication and transparency are required to allow all parties the option to take mitigating actions.</i></p>
2	Do you support the proposed implementation approach?	<p><input type="checkbox"/>Yes</p> <p><input checked="" type="checkbox"/>No</p> <p><i>No, there is concern the proposed timeline will not allow for current charging disputes to be concluded.</i></p>
3	Do you have any other comments?	<p><i>RUK would like to note that if all parties work collaboratively throughout, the inefficient costs that the consultation is trying to prevent would not be incurred in the first place.</i></p> <p><u>Previous 'Alternative Route' followed</u></p>

- *The detail on charges was captured within the TO's charging statements. These are set individually by the TOs and not approved by the regulator. Ofgem only approves the statements in form and not the content.*
- *It is our understanding the statements are between the ESO & the TO. The user is currently at an 'arm's length' to this.*
- *It is within the ESO's remit to ensure any costs passed on to the user are valid and transparent.*

Discrimination to users

- *NGESO's licence at Standard Licence Condition C7 contains a Prohibition on discriminating between users.*
- *During the workgroups, members requested if there was any available data on the application of charges. RUK understands this is still outstanding.*
- *There is concern over the difference in detail with respect to the charges across each of the TO's statements.*
- *To ensure consistency we recommend clearly defining the charges within the CUSC and not charging statements.*

Communicate & Transparency

- *The workgroup mentioned charges are applied at a last resort - how can this be ensured or guaranteed for Users?*
- *Timely & adequate sharing of information would prevent the charges being applied in the first place.*
- *For the ESO to apply a charge to a user, it needs to be transparent and comfortable the charge is correct.*
- *Any material spend should be communicated between parties.*

Early Access Charge

- *Application of the charge comes from the user requesting a backfeed date before the 'efficient charging' date.*
- *This date is set by the TO, often without consultation to the user.*
- *A clear definition is required of how this date is agreed between the three parties, with each party having input to this.*

		<ul style="list-style-type: none"> Language within the consultation states - “As delay/backfeed charges can be negotiated between users”. With the appropriate level of transparency, the charge should be binary. <p><u>Past Application of Charges</u></p> <ul style="list-style-type: none"> Within the consultation, NGESO confirm charges are not adequately explained with CUSC Sect 14. The consultation states “No mechanism currently exists within the CUSC to ensure these costs are funded by the requesting party instead of being recovered through TNUoS.” If this is correct, it indicates the charges have been applied in the past without the appropriate authority. Will previous charges be waived? “There will be no retrospective insertion of delay charges/backfeed charges into User agreements if these have not been previously agreed.” To confirm NGESO’s position that the consultation will only cover ‘agreed’ charges. How will this impact those in dispute? Clarification is required here. <p><u>Inefficiencies</u></p> <ul style="list-style-type: none"> All parties must be incentivised to act efficiently, TO included. Users should be able to request a delay before a material cost is incurred. <p><u>Allocation of risk</u></p> <ul style="list-style-type: none"> The allocation of risk under the CUSC could be altered. Risk of asymmetric regime for delay.
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	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
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	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.	N/A
2	Do you have any comments in respect of the options set out for Shared Works?	<p><i>We agree that a party should be liable for costs that have been incurred on their behalf. Further clarity on cost reflectivity is welcomed; we would welcome further evidence and discussion on the following scenarios:</i></p> <p><u>Shared works</u></p> <ul style="list-style-type: none"> <i>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.</i> <p><u>Sole Use</u></p> <ul style="list-style-type: none"> <i>Users should not be penalised for the TO’s inefficiency and carry a duty to mitigate losses.</i> <p><u>Incurred Loss</u></p> <ul style="list-style-type: none"> <i>Charges have to translate into actual costs / losses incurred by the TO.</i> <i>This is difficult to assess, unless all parties have the ‘full picture’</i> <i>The current proposal does not confirm to users if charges presented will be cost reflective.</i>
3	<p>Do you think the CMP289 modification is required? If so, please provide your justification.</p> <p><i>If you think CMP289 is required, please continue to answer the CMP289 Workgroup consultation questions.</i></p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><i>Tbd on 288 position</i></p>

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
		<i>As above</i>
2	Do you support the proposed implementation approach?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
		Click or tap here to enter text.
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
		Click or tap here to enter text.