

CUSC Special Panel

Monday 30 May 2022

Online Meeting via Teams

WELCOME

A wide-angle landscape photograph featuring a valley with a winding river and several bright, glowing orange-yellow lines that curve across the terrain, suggesting a path of energy or data. In the background, large, rugged mountains are partially covered in snow under a dramatic, cloudy sky with a bright light source.

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New modifications submitted



**CMP392 – Transparency and legal certainty as to
the calculation of TNUoS in conformance with the
Limiting Regulation**

Garth Graham – SSE Generation Ltd

Critical Friend Feedback – CMP392

| Code Administrator comments | Amendments made by the Proposer |
|--|---|
| <p>Proposed shortening the issue section and including the legal arguments as an Annex</p> <p>Questioned implementation date and asked for a date need decision by, how many Workgroups may be needed and produced urgent and standard timeline</p> <p>Asked whether or not CMP391 is a Pending CUSC Modification Proposal and needs to be implemented first</p> | <p>Discussed timeline with Proposer. Proposer explained rationale for keeping the legal arguments within the issue section and clarified why he believes CMP391 is not a Pending CUSC Modification Proposal</p> |

Ofgem's Urgency Criteria

Ofgem's 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.

More information can be found at:

https://www.ofgem.gov.uk/system/files/docs/2016/02/urgency_criteria.pdf

Proposer’s Justification vs Ofgem’s Urgency Criteria

The Proposer recommends that this modification should be treated as an Urgent Modification proposal and go straight to Code Administrator Consultation

| Ofgem’s Urgency Criteria | Proposer’s Justification |
|---|---|
| a) A significant commercial impact on parties, consumers or other stakeholder(s). | <p>The Proposer argues that in respect of the Authority’s published urgency criteria this is a current issue which; as witnessed by, for example, the expediency directed, by the Authority, to the progression of CMP391; needs to be addressed with urgency.</p> <p>This is because without this legal certainty and transparency; as to the practical process to be performed by the ESO when undertaking the CUSC Calculation; then the assessment of whether (or not) the transmission charges paid by generators in GB fall within (or out-with) the range prescribed in the Limiting Regulation (and thus are, or are not, those transmission charges paid by generators in GB compliant with that regulation) will be uncertain and this gives rise to “a significant commercial impact on parties, consumers or other stakeholder(s)”.</p> |
| b) A significant impact on the safety and security of the electricity and/or gas systems. | n/a |
| c) A party to be in breach of any relevant legal requirements | <p>The Proposer argues that, without this change, the ESO will be in “breach of legal requirements”, when seeking to perform the said CUSC Calculation; absent of the legal certainty and transparency from this proposal; as to how practically to treat, on a case by case basis, the requisite physical assets (and charges) required for connection of each generator to the system in light of the Judgement.</p> |

Timeline for CMP392 – Proposed Urgent Timeline - Workgroup

To be confirmed at Panel Meeting on 30 May 2022

Timeline for CMP392 – Proposed Standard Timeline – Workgroup

To be confirmed at Panel Meeting on 30 May 2022

What can only be changed by Urgency - CUSC

| Milestone | Standard Timescale | Referenced in CUSC Section 8 | Referenced in CACOP V5.1 | Referenced in Terms of Reference | Comments |
|--|-----------------------------------|------------------------------|---|----------------------------------|--|
| Workgroup Nominations | 15 working days | No | No | No | 15WD appears to be industry practice but nothing preventing Panel agreeing to a shorter period without the need for Urgency |
| Workgroup Consultation | 15 working days | Yes – 8.20.7 and 8.20.8(d) | Yes - Principle 10 (<i>Standard 15 Business Days</i>) | Yes | CACOP Principle 10 states a standard 15 business days. In theory, Panel under 8.20.7 and 8.20.8(d) can set a shorter period (as part of the Terms of Reference; however the standard Terms of Reference states 15 WD) without the need for Urgency |
| Workgroup Report to Panel | 5 working days | No | No | No | Panel can agree to a shorter period without the need for Urgency. |
| Code Administrator Consultation | 15 working days (1 month if EBGL) | Yes – 8.22.2 | Yes - Principle 10 (<i>Standard 15 Business Days</i>) | No | CACOP Principle 10 states a standard 15 business days. 1 month if EBGL. |
| DFMR to Panel | 5 working days | Yes – 8.23.3 | No | No | Must be 5WD notice (8.23.3) |
| FMR to Panel to check Votes | 5 working days | Yes – 8.23.5 | No | No | Must be 5WD notice (8.23.5) |

CMP392 - the asks of Panel

- **AGREE** that this Modification should proceed to Workgroup
- **NOTE** that there appear not to be any impacts on the Electricity Balancing Regulation (EBR) Article 18 terms and conditions held within the CUSC
- **VOTE** whether or not to recommend Urgency
- **AGREE** timetable for Urgency
- **AGREE** Workgroup Terms of Reference
- **NOTE** next steps:
 - Under CUSC Section 8.24.4, we will now consult the Authority as to whether this Modification is an Urgent CUSC Modification Proposal
 - Letter to be sent to Ofgem 30 May 2022
 - Ofgem approval of Urgent treatment sought by 5pm on 1 June 2022
 - 1st Workgroup to be held - to be confirmed at Panel Meeting on 30 May 2022.

The background features several thick, flowing yellow lines. In the upper left, a series of curved lines form a shape reminiscent of a stylized 'C' or a protective shield. In the lower right, three parallel diagonal lines slope upwards from left to right. The overall aesthetic is modern and minimalist.

AOB

Close



Trisha McAuley

Independent Chair, CUSC Panel

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