

CMP288 'Explicit charging arrangements for customer delays and backfeeds'

and

CMP289 'Consequential change to support the introduction of explicit Charging arrangements for customer delays and backfeeds via CMP288'

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 by **31 January 2019** to cusc.team@nationalgrid.com Please note that any responses received after the deadline or sent to a different email address may not receive due consideration by the Workgroup.

Any queries on the content of the consultation should be addressed to Shazia Akhtar at Shazia.akhtar2@nationalgrid.com

These responses will be considered by the Workgroup at their next meeting at which members will also consider any Workgroup Consultation Alternative Requests. Where appropriate, the Workgroup will record your response and its consideration of it within the final Workgroup Report which is submitted to the CUSC Modifications Panel.

Respondent:	Tim Collins, tim.collins@simec.com , +44 (0)7718 490977
Company Name:	SIMEC
Please express your views regarding the Workgroup Consultation, including rationale. (Please include any issues, suggestions or queries)	<p>For reference, the Applicable CUSC Objectives for the Use of System Charging Methodology are:</p> <p>(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;</p> <p>(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);</p> <p>(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;</p> <p>(d) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the</p>

	<p>Agency. These are defined within the National Grid Electricity Transmission Plc Licence under Standard Condition C10, paragraph 1*; and</p> <p>(e) Promoting efficiency in the implementation and administration of the CUSC arrangements.</p> <p>*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).</p> <p>The Applicable Standard CUSC objectives are:</p> <p>(a) The efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence;</p> <p>(b) 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;</p> <p>(c) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency *; and</p> <p>(d) Promoting efficiency in the implementation and administration of the CUSC arrangements.</p> <p>*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).</p>
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Q	Question	Response
1	Do you believe that CMP288 and CMP289 Original proposals, better facilitates the Applicable CUSC Objectives?	<p>No. We believe it would materially increase the risks to generation projects in their development and construction phase. This would have negative consequences for CUSC objective (b), facilitating effective competition in the generation and supply of electricity.</p> <p>We are concerned that the potential liabilities arising under CMP 288/289 will be extremely difficult for individual developers to understand, quantify and mitigate. This will have a deterrent effect on new generation projects generally and could increase project hurdle rates. Ultimately this will reduce competition in generation, to the detriment of end consumers.</p> <p>We note that developers themselves have imperfect knowledge of the likelihood and extent of delays to their projects, because progress is often dependent on the planning process, over which they have little or no control. If a developer cannot control the time it takes for an authority to make a planning decision, we would question whether developers should bear substantial new liabilities arising from (in many cases) the planning process.</p> <p>There are already natural commercial incentives on developers not to delay their projects without good reason, as prolonging the lag between development spend being incurred and project revenues commencing reduces the project's return.</p> <p>The existing user commitment regime brought in by CMP192 already deals with the risk of inefficient transmission investment caused by developers. We question the reasonableness of additional penalties being brought in on top of the liabilities imposed on pre-commissioning generators under CMP192, which can easily be in the tens of millions of pounds for larger projects.</p>
2	Do you support the proposed implementation approach?	<p>No. If arrangements along the lines of CMP288/289 are to be implemented, there should be no retrospectivity in the implementation. In practice, this means that charges arising under CMP288/289 should only apply to connection agreements entered into after the [April 2020] implementation date.</p>

Q	Question	Response
3	Do you have any other comments?	No.
4	Do you wish to raise a Workgroup Consultation Alternative Request for the Workgroup to consider?	<p><i>If yes, please complete a WG Consultation Alternative Request form, available on National Grid's ESO website¹, and return to the CUSC inbox at cusc.team@nationalgrid.com</i></p> <p>Yes. We believe the Workgroup should develop a WACM proposal that CMP288/289 only applies to connection agreements entered into after the [April 2020] implementation date and not to connection agreements entered into prior to that date.</p> <p>The negative effects of CMP288/289 would be reduced if it only applied to connection agreements entered into after the [April 2020] implementation date. Whilst the additional risks arising from CMP288/289 will still have negative consequences for the uptake of future generation projects and therefore effective competition in generation (CUSC objective (b)), future developers will at least be aware of the risks posed by CMP288/289 and can factor them into their project before deciding whether to proceed. By contrast, developers whose connection agreements pre-dated CMP288/289 would be faced with a sizeable new risk they did not know about and could not have reasonably anticipated when they entered into their agreements. Retrospective application of CMP288/289 would have additional negative consequences for the perceived stability and predictability of the GB connection regime, reinforcing the negative impacts on CUSC objective (b). For this reason, a WACM is needed that ensures CMP288/289 only applies to connection agreements entered into after the [April 2020] implementation date.</p>

Specific questions for CMP288 and CMP289

¹<https://www.nationalgrideso.com/codes/connection-and-use-system-code-cusc/cusc-modifications>

Q	Question	Response
5	Do you believe this consultation covers all the relevant interactions between other liability/charging mechanism currently in place in addition to cancelation and connection charge? If not, please can you provide further information.	The existing user commitment regime brought in by CMP192 already deals with the risk of inefficient transmission investment caused by developers. We question the reasonableness of additional penalties being brought in on top of the liabilities imposed on pre-commissioning generators under CMP192, which can easily be in the tens of millions of pounds for larger projects.
6	Do you agree with the scope of the works which are proposed to be used to calculate the charge?	No. The scope appears significantly broader than the scope of cancellation charges levied on pre-commissioning generators under the existing user commitment regime brought in by CMP192. It is not clear why the scope of “delay charges” should be so much broader than the scope of cancellation charges, when the latter are judged to be a reasonable apportionment of risk between various classes of user.
7	Do you agree with the proposed level of granularity, timing of the proposed information exchange and the period it covers?	No comment.
8	Do you agree with the proposed quarterly reporting of/provision of milestones?	If arrangements on the lines of CMP288/289 are brought in, it is essential that developers are given as much clarity as possible on their projected “delay charges” over time, so they have at least some possibility of mitigating them.
9	Do you believe the report has captured all the cross code/licence issues relevant to these modifications?	No comment.

Q	Question	Response
10	<p>Do you agree that the wording of the CUSC should be amended to clarify that one-off charges will be issued to recover additional incremental costs incurred to facilitate a User requested delay or backfeed? If so, do you think this should include a list of example such one off costs that can be incurred for delays and backfeeds?</p>	<p>No comment.</p>
11	<p>Do you support either of the solutions proposed for calculating financing charges in relation to shared and wider enabling works? Do you have another solution which may be better?</p>	<p>No comment.</p>
12	<p>Do you agree with the proposed approach that the delay/backfeed charges should be paid as the costs are incurred? Or do you feel they should be paid in an alternative timeframe (e.g. the point of connection)?</p>	
13	<p>Do you agree with the one month deadline to notify the TO of an intention to delay, to allow the TO to reassess its investment strategy?</p>	<p>We have general concerns about the provision of timely information to developers on when the TO plans to procure high cost items. We question whether, in practice, CMP288/289 will give developers a meaningful opportunity to review their connection dates and take the necessary steps to avoid the “delay charges” associated with high cost items, or whether “delay charges” will in practice be an unmanageable risk for developers. We believe CMP288/289 will have a deterrent effect on new generation projects generally and could increase project hurdle rates. Ultimately this will reduce competition in generation, to the detriment of CUSC objective (b) and end consumers.</p>

Q	Question	Response
14	<p>Do you agree that individual TOs' regulated Weighted Average Cost of Capital (WACC) should be used as the financing rate to calculate the proposed financing charges?</p>	<p>Yes, albeit we do not support the introduction of a financing charge.</p>