

Workgroup Consultation Response Proforma

CMP376: Inclusion of Queue Management process within the CUSC

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 **23 December 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 paul.j.mullen@nationalgrideso.com or cusc.team@nationalgrideso.com

Respondent details	Please enter your details
Respondent name:	Michelle MacDonald Sandison
Company name:	Scottish Hydro Electric Transmission Ltd (SHET)
Email address:	Michelle.MacDonaldSandison@sse.com
Phone number:	01738 342183

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.*

*The Electricity Regulation referred to in objective (c) is Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (recast) as it has effect immediately before IP completion day as read with the modifications set out in the SI 2020/1006..

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

Standard Workgroup Consultation questions							
1	Do you believe that the Original Proposal or any of the potential alternative solutions better facilitates the Applicable Objectives?	<p>Mark the Objectives which you believe each solution better facilitates:</p> <table border="1"> <tr> <td>Original</td> <td><input type="checkbox"/>A</td> <td><input checked="" type="checkbox"/>B</td> <td><input type="checkbox"/>C</td> <td><input checked="" type="checkbox"/>D</td> </tr> </table> <p>SHET believes the original proposal better facilitates objectives B and D, as this proposal will implement a fair and consistent process to manage connection queues. This will remove inefficiency in who can connect and support a commercial benefit to the user to progress with the connection. It will ensure that Users who are ready to progress are able to and can connect more efficiently to the NETS.</p> <p>SHET believes A and C are neutral.</p>	Original	<input type="checkbox"/> A	<input checked="" type="checkbox"/> B	<input type="checkbox"/> C	<input checked="" type="checkbox"/> D
Original	<input type="checkbox"/> A	<input checked="" type="checkbox"/> B	<input type="checkbox"/> C	<input checked="" type="checkbox"/> D			
2	Do you support the proposed implementation approach?	<p><input checked="" type="checkbox"/>Yes <input type="checkbox"/>No</p> <p>SHET is supportive of the implementation approach. We agree that there should be differences between the Distribution and Transmission connected customers, and that the current proposals are in line with the current Transmission connections process.</p> <p>We are also supportive that Users should not be moved down the queue where they have not provided evidence of meeting their milestones, we believe terminating their current agreement is the best approach to provide the User with a commercial benefit to progress.</p>					
3	Do you have any other comments?	<p>We have gone into more detail below, but we would like to reiterate that we do not support suspending applications to the NETS in an area which has a dispute/appeal by a User who has missed their milestone and has been terminated.</p> <p>SHET does not believe CUSC is the right forum if queue management does decide to suspend applications, as Transmission Owners have a licence obligation to provide connection offers. TO's would require licence derogations in order to make this suggestion a reality.</p>					
4	Do you wish to raise a Workgroup Consultation Alternative Request for the Workgroup to consider?	<p><input type="checkbox"/>Yes <input checked="" type="checkbox"/>No</p> <p>We do not want to raise any alternatives but would be broadly supportive of any proposals that could help implement queue management quickly.</p>					

Specific Workgroup Consultation questions

1	Do you agree with the Milestone durations proposed? Please provide the rationale for your response.	Yes, SHET is supportive of the current milestone durations. We are happy that any delays we could reasonably think of at this point in time, would be covered under exceptions, and any unreasonable delays will be dealt with once milestone dates have been missed.
2	Do you agree that the time period for the milestone durations should be from the contracted Completion Date back to the date the Offer is sent to the User; or from the Contracted Completion Date back to the date the Offer is accepted by the User; or from the Contracted Completion Date back to the date the Offer becomes effective; or do you have an alternative approach? Please provide the rationale for your response.	Yes, SHET believe that Milestones should be measured backwards from the contracted Completion Date. Doing this provides Users with a clear timeline of when tasks will need completed in order for them to provide the evidence required to meet the milestone. To work forwards from acceptance would complicate the milestone dates as the TO would be unable to know these until the date the offer is accepted. To work backwards would be the preferred option, as the timelines would be clear from the outset of when milestone tasks must be completed.
3	There are differences between the arrangements at Transmission and Distribution. Do you agree with the reasons provided why there is different treatment and that these don't create undue discrimination? Please provide the rationale for your response.	We support the differences between the arrangements at Transmission and Distribution, as they have been created to more accurately reflect the process and timescales that occur in these differing connections journeys. We do not believe the differences create discrimination. The user has many opportunities within Distribution and Transmission to progress their project, and there are exceptions available to be utilised prior to any risk of termination.
4	Do you agree with the evidence requirements proposed? Please provide the rationale for your response.	We broadly agree with the evidence requirements proposed. For Milestone M1, we believe the evidence wording should be amended to "submission of planning application to the correct Statutory Authority", to be more reflective of who should receive the planning application.

		<p>We believe that all references to planning decision should be clarified and would suggest "consent decision" may be more appropriate in this context.</p> <p>For Milestone M5, we would like the evidence requirements to have some more detail. The current evidence statement is that the User must provide evidence that they have submitted a design for contestable works to the Transmission Owner (TO). We would like this evidence to go further, to state that a contestable design has been submitted to the Transmission Owner, who has accepted the design is competent. We would also like to highlight the provision of contestable designs should be timely, as there may need to be multiple iterations of contestable design required before the project can move forward.</p>
5	Do you agree that works specifically for a User, whose Construction Agreement has been terminated under CMP376, should be suspended until the outcome of the Appeal/Dispute. Please provide the rationale for your response.	<p>We support the suspension of any works within this scenario, due to the potential for termination, any further works completed within the appeal period would incur extra expense and a subsequent financial risk which could leave the TO with stranded assets which are not economic or efficient for the bill paying consumer. In the instance where the appeal is upheld, we would need the right to amend the construction completion dates to account for the downtime whilst the User was in the appeals/disputes process.</p> <p>SHET does not support suspending applications to the NETS in an area which is currently open for dispute/appeal by a User who has missed their milestone and has been terminated.</p> <p>SHET does not believe CUSC is correct forum if queue management does wish to suspend applications.</p>
6	Do you have any views on the most appropriate route for Appeals/Disputes raised by a User whose Construction Agreement has been terminated under CMP376? Please provide the rationale for your response.	<p>SHET agree there is no perfect solution for appeals/disputes. Our preferred route would be Option 5, a hybrid approach where technical disputes are passed to the Independent Engineer, and any other disputes are sent to Ofgem.</p> <p>We do not believe Option 1 is acceptable as TO's are not parties to the CUSC.</p> <p>We are supportive that the Appeals/Disputes process needs to be quick and efficient.</p>
7	Do you agree with the circumstances when Milestone Dates will be	<p>We feel that it is important to distinguish events/circumstances which would be considered <i>Force Majeure</i> to avoid it being used improperly as a</p>

	<p>changed – the “exceptions”? Please provide the rationale for your response.</p>	<p>justification for Milestones not being met. We are concerned with the wording of <i>Force Majeure</i> due to it having a legal definition which perhaps is not as wide as the Proposer has implied within the consultation. We believe exceptional events may be more appropriate than the legally narrow ‘<i>Force Majeure</i>’. We are supportive that <i>Force Majeure</i> is kept as an exception, but would propose that ‘exceptional events’ could be added to cover delays that would not fall within <i>Force Majeure</i>.</p> <p>SHET has concerns that the ‘Planning appeals (M2) in relation to the User’s Consents’ exception could lead to unending exceptions due to spurious planning appeals. Whilst we agree this is a valid exception if used sparingly, we have concerns that some Users could exploit this exception in order to hold capacity that will be unlikely to connect due to numerous failed planning appeals.</p> <p>SHET believes that ‘any delay experienced by Transmission Licensee or the ESO’ is a vague phrase which could be interpreted many ways by a User. SHET would prefer if the wording were amended to account for ‘unforeseen delays’ to reduce the number of potential appeals/disputes.</p>
8	<p>Do you agree that the associated Construction Agreement will be terminated if Milestone Dates (unless covered by the exceptions) are missed and not rectified within the 60-calendar day period? Please provide the rationale for your response.</p>	<p>Yes, SHET agrees that the construction agreement if the User has not met their milestone or provided an adequate exception. We are also supportive of allowing the user to have 60 days from the issue of the milestone default notice, to be given a last chance to rectify. This should allow serious users with an opportunity to rectify issues and provide the relevant evidence but isn't so long that it excessively holds up the queue for the next user. We support that if milestones are missed, that the user is not moved down the queue, we support that they are terminated.</p>
9	<p>Do you agree with the proposed impacts on Milestones for different types of Modification Applications? Please provide the rationale for your response.</p>	<p>We are supportive of the proposed impacts on milestones for different types of modification applications. Where a date change is requested, we are supportive that the milestone dates do not change as this helps alleviate the known issue of Users amending their completion date multiple times. Users will be kept to their milestone dates, and where they do not provide</p>

		<p>the evidence to meet these dates, they will start the process for termination.</p> <p>We are also supportive that milestone dates should be amended, where the user has provided evidence of an exception being applicable, to allow those Users the opportunity to meet their milestones.</p>
10	<p>Does the CMP376 Original proposal or any of the potential alternative solutions impact your business and/or end consumers. If so, how?</p>	<p>We think the CMP376 original proposal has a positive impact on ourselves and end consumers, as it opens the opportunity to connect new generation sources to the NETS quicker than the current baseline process i.e., by ensuring that queues do not form behind stalled or delayed projects and allowing more advanced projects to progress. This will result in the network capacity being allocated sooner and more efficiently.</p> <p>Queue management will also provide a commercial incentive for Users to meet project milestones in order to avoid losing their place in the queue. This in turn will bring additional economic benefits to the end consumer.</p>