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| Workgroup Consultation | | | |
| **CMP402:**  **​Introduction of Anticipatory Investment (AI) principles within the User Commitment Arrangements**  **Overview:** ​In response to Ofgem’s final decision on AI dated 18 October 2022, changes to the current User Commitment provisions as detailed within CUSC Section 15 are required to introduce the AI principles for offshore generators connecting at different times to non-radial offshore transmission network.​ | | **Modification process & timetable**    **Proposal Form**  25 November 2023  **Workgroup Consultation**  02 May 2023 - 24 May 2023  **Workgroup Report**  20 July 2023  **Code Administrator Consultation**  02 August 2023 - 31 August 2023  **Draft Modification Report**  21 September 2023  **Final Modification Report**  02 October 2023  **Implementation**  05 January 2024  **1**  **2**  **3**  **4**  **5**  **6**  **7** | |
| **Have 5 minutes?** Read our [Executive summary](#_Executive_summary_1)  **Have 20 minutes?** Read the full [Workgroup Consultation](#_Why_change?)  **Have 30 minutes?** Read the full Workgroup Consultation and Annexes. | | | |
| **Status summary:** The Workgroup are seeking your views on the work completed to date to form the final solution(s) to the issue raised. | | | |
| **This modification is expected to have a: ​High impact**​  ​​ ​ESO, Offshore Generators, Offshore Transmission Owners, Consumers​ | | | |
| **Governance route** | ​​Standard Governance modification with assessment by a Workgroup​ | | |
| **Who can I talk to about the change?** | **Proposer:**  David Witherspoon ​  ​​[David.Witherspoon@nationalgrideso.com](mailto:David.Witherspoon@nationalgrideso.com) ​​​07774 197450​ | | **Code Administrator** **Chair**: ​​  Jessica Rivalland  ​[Jessica.Rivalland@nationalgrideso.com](mailto:Jessica.Rivalland@nationalgrideso.com)  ​07794537028​ |
| **How do I respond?** | Send your response proforma to[cusc.team@nationalgrideso.com](mailto:cusc.team@nationalgrideso.com) **by 5pm on 24 May 2023** | | |

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# Executive summary

*High-level overview of what the modification is and why it has been raised. (1-2 sentences).*

What is the issue?

*Short and plain English summary of the defect. (1-3 sentences)*

What is the solution and when will it come into effect?

**Proposer’s solution:** *Short summary of the proposer’s solution (1-3 sentences).*

**Implementation date:** *The date that the change will be implemented into the code/standard and when it will take effect if different. (Just the date is required – any explanation can be made in the full section).*

**Summary of potential alternative solution(s) and implementation date(s):**

*Summary of any alternatives that have been discussed/raised (1-3 sentences).*

What is the impact if this change is made?

*Summarise the impacts. Don’t just copy and paste the impacted parties from the front page. This is to explain what the impacts are on those parties. (1-3 sentences)*

Interactions

*Identify any interactions with other modifications, other codes/standards or other industry-wide work i.e. BSUoS Taskforce/Open Networks. (1-2 sentences)*

**[this should be no longer than one page]**

What is the issue?

​​​As part of the Offshore Transmission Network Review, Ofgem reviewed the current AI arrangements and recognised that there is a need for change to incentivise AI for further investment in offshore transmission. Specifically, to support the later connection of a specific offshore development or developments, as well as to recognise the fact that two offshore generators will be connecting at different times.

​

​Within their final decision entitled “Anticipatory Investment and implementation of policy changes”1, Ofgem:

* ​Outlined the introduction of an Early-Stage Assessment process; and
* ​Outlined the extension of User Commitment arrangements in CUSC Section 15 to non-radial offshore transmission to allow for a calculation of an AI cost for new offshore transmission assets in which future generator(s) (or, ‘later users’ within that decision) will be liable for up to the point in which they start paying Transmission Network Use of System (TNUoS) charges. The extension of these liabilities for the later user(s) is to mitigate the allocation of AI risk on consumers.

​

​User Commitment arrangements currently cover the concept of radial offshore connections for offshore generators only to the extent that they define the liabilities and securities for each generator for the relevant transmission works onshore (as with onshore connections) as part of the connection. Offshore transmission works are currently ‘self-secured’ and these arrangements are not included within the CUSC. As offshore transmission assets are being progressed under generator build arrangements (and so at generator’s risk), any cancellation charge in respect of these works under Section 15 of the CUSC does not include these self-secured works, nor is there any security associated with these self-secured works. Therefore, to protect consumers, there is a need to extend User Commitment arrangements to incorporate the AI cost to generator(s) who will be benefiting from shared offshore assets that are being developed and built by the initial generator as part of a non-radial offshore connection.

## Why change?

​​​The current approach to AI for offshore generators has been reviewed because generators have not been incentivised to undertake AI for future projects. Therefore, Ofgem has introduced a new AI concept to increase coordination between generator projects and mitigate the allocation of AI risk to consumers. To enable the change, there will be a requirement to define new terms such as the initial user and later users, as well as the Early-Stage Assessment which will be carried out by Ofgem on receipt of an application from the relevant user(s) for AI cost to be determined. ​​ 

What is the solution?

## Proposer’s solution

​​The Proposer seeks to introduce the principle of AI into the User Commitment arrangements, via a new Part 5 in CUSC Section 15. Ofgem has noted that “the extension of user commitment arrangements to offshore transmission assets to cover any potential later user of offshore transmission assets funded by AI is intended to demonstrate commitment from the potential later user and demonstrates seriousness of purpose”. And “for the avoidance of doubt, [Ofgem] do not contemplate any extension of user commitment arrangements to the original user or to the non-AI element of any offshore transmission infrastructure”.

​

​At the 23 August 2022 workshop, the Proposer presented a number of options as to how the liabilities could be calculated and passed onto the later user(s), here being referred to as ‘G2’, noting this term could also potentially include any future subsequent generator(s) for the purpose of this code modification.

​

​The potential options put forward/discussed at that time were:

* ​Option 1: Utilising the existing User Commitment arrangements, AI liabilities would be proportioned using a Local Asset Reuse Factor (LARF) and Strategic Investment Factor (SIF), resulting in G2 only being liable for a proportion of the liability rather than the full AI cost liability. Challenges as to how and who would propose the LARF and SIF calculations were presented, as currently the Transmission Owners state what the calculations would be for the onshore transmission works.
* ​Option 2: The LARF and SIF factors would be constantly set as 1, and therefore G2 would be liable for the whole of the AI cost up until the point of connection.
* ​Option 3: Seeking an alternative option for the pathway to 2030 projects and not utilising the proposed AI User Commitment arrangements for Early Opportunity projects.

​

​Following this feedback and discussion, the Proposer is now seeking to implement a new option based upon further consideration and workshop discussions, which would mean that G2 is only liable for the proportion of the AI cost. However, the Proposer considers that it prudent for discussion at workgroup to further consider an appropriate means to consistently calculate a suitable proportion (as well as the suitable percentage of that liability which is then secured) to adequately balances risk between G2 and consumers, as well as to acknowledge the concerns of how much liability is required by G2 ahead of its Financial Investment Decision (FID).

​

​Areas which will need to be addressed with support of workgroup as part of this modification proposal are:

​

* ​What is the appropriate sharing factor that should be applied to the AI cost pre and post G2 FID? For the purposes of this code modification, the Proposer suggests a sharing factor of 33% Pre-FID and 67% Post-FID i.e. G2 being liable for these percentages of the AI value(s), identified via the Early-Stage Assessment process, in those timescales. We will also need to further consider whether it could be appropriate to include an ability to replace these defined percentages with a split directed by Ofgem via the Early-Stage Assessment process, to provide flexibility in relation to AI liabilities
* ​Will we need to consider if and how the sharing factor will change in the event that there is more than one generator dependent upon the AI being provided by the original generator?

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​

* ​Should the current User Commitment principles for secured amounts against liability apply in the same way for AI liability i.e. 100% pre-trigger date, 42% post trigger date and 10% consented?
* ​Logically the Proposer does not see why the existing onshore approach to security – both in terms of the value and the acceptable forms - could not be extended ‘as is’ offshore for non-radial transmission connected generation i.e. the above security percentages and their link to the trigger date could remain the same for the AI cost component, as the risk of termination is not expected to be any greater or lesser for G2, solely due to the existence of AI.  Therefore, it is considered by the Proposer that the security can remain ‘as is’ once the liability has been calculated.

​

* ​If and when should the AI component be eligible for inclusion within a fixed cancellation charge?
* ​The Proposer does not believe that the AI component should be fixable prior to the value and profile being provided by Ofgem (as it could be fixed at zero) but the value and profile should be fixable from that point onwards i.e. from the first fixed cancellation charge statement which includes the AI cost, as is the principles for onshore attributable works.

​

* ​In the potential scenario where some of the AI is considered to be for the purpose of wider system benefit (e.g. to reduce identified boundary constraints) rather than specific to the subsequent developer(s), it is important to ensure that the subsequent generator(s) is/are only liable for their proportion of the AI liability, with any AI liability associated with wider system benefit not directly filtering through to the subsequent generator(s).  As Transmission Owners are not liable for user commitment there will be the requirement to separately ensure that any such AI liability is correctly accounted for in the final sums’ arrangements.

​

​The proposed principles for the extension to the User Commitment arrangements to incorporate the AI cost liability are as follows based on current assumptions:

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* ​The initial AI cost value (and its spend profile) will be derived at an Early-Stage Assessment, or the (subject to an Ofgem decision) gateway assessment in the context of the Holistic Network Design recommendation process undertaken by Ofgem on receipt of an application by the generator(s) seeking to develop coordinated infrastructure which would require any AI.
* ​The AI cost and profile that we expect will be provided to the ESO by Ofgem once the Early-Stage Assessment process has concluded will then be used to allow the ESO to calculate the Cancellation Charge and Secured Amount Statement, including the new AI liability for G2 through the User Commitment principles. This will be in addition to the values currently calculated in accordance with Section 15 of CUSC and then provided to generators via the MM1-MM3 documentation with contract offers and/or every six months. The AI liability that is applied to G2 is proposed to be 33% of the AI value set via the Early-Stage Assessment process Pre-FID, rising to 67% Post-FID. It is proposed that G2 can only fix the AI liability at the point at which the value is presented within the statements thus ensuring that the AI liability cannot be fixed at £0.
* ​It is assumed that from the point of contract signature for G2 until the point that the AI cost has been agreed and submitted to the ESO, that the AI liability will be £02. It is important to note, the existing User Commitment liabilities would continue to apply for G2 for onshore transmission works required as part of their connection to the transmission system.
* ​G2 will be liable for the AI cost until their connection date, at which point will then pay TNUoS charges. Should G2 reduce its Transmission Entry Capacity (or terminate) ahead of connection, then the current User Commitment arrangements will be applied in respect of onshore transmission along with the proposed amended User Commitment arrangements in respect of non-radial offshore transmission to ensure the appropriate liability costs are recovered, including via security, to the extent it is available.

​

​The Proposer has also identified the need for a related Charging Modification “Incorporation of the Anticipatory Investment (AI) Cost Gap”, which will be raised once details have been finalised.

Workgroup considerations

The Workgroup convened XX times to discuss the perceived issue, detail the scope of the proposed defect, devise potential solutions and assess the proposal in terms of the Applicable Code Objectives.

**Consideration of the proposer’s solution**

There was a specific discussion on what proportion of the AI cost liability should the later user be liable for pre and post Financial Investment Decision (FID) with some Workgroup Members arguing that the proposed 33% pre (FID) was too high.

Workgroup Members also asked if assets can be re-used and how a Local Asset Reuse Factor (LARF) could be applied.

**Consideration of other options**

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| **Option** | **Pros** | **Cons** |
| Solution based on capacity of assets | * This would follow current User Commitment principles which allows a sharing factor to be applied meaning liabilities are also shared with other Users. * It could provide clarity to developers as to what percentage liability they could be liable for ahead of the Early-Stage Cost Assessment being completed |  |
| Local Asset Reuse Factor (LARF) could be applied | * This would follow current User Commitment principles which allows the principle that the asset could be reusable meaning liabilities are reduced. | * Currently the LARF is provided by Transmission Owners and therefore would need to determine how and who would determine the LARF. * It can be questioned how reusable HVDC assets offshore are and therefore the timing could / would need to be considered. |
| Capping elements aligned to typical FID | * This would provide certainty to the later developer | * It could result in more risk being passed onto consumers |
| AI costs liabilities to be calculated on case by case basis | * This could be deemed a fair approach as certainly as is the case with Early Opportunity projects, each project may be slightly different in approach. | * Would not necessarily provide certainty and clarity for the later developer ahead of FID * Potentially could set precedent for future projects |

**Workgroup consultation question:**

x

## Draft legal text

Legal text will be drafted after the Workgroup Consultation has been completed.

The draft legal text for this change can be found in Annex xx.

What is the impact of this change?

## Proposer’s assessment against Code Objectives

|  |  |
| --- | --- |
| **Proposer’s assessment against CUSC Non-Charging Objectives** | |
| **Relevant Objective** | **Identified impact** |
| (a) The efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence; | **​​Positive​**  ​​The code modification is being raised at the request of Ofgem to implement the decision on AI.​ |
| (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; | **​​Positive​**  ​​This code modification helps to provide efficient and coordinated competition in the generation and supply of electricity as it will provide clarity and certainty for the future development of AI and offshore coordination.​ |
| (c) Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency \*; and | **​​Neutral​**  ​​This code modification is not related to any compliance issues hence the neutrality​. |
| (d) Promoting efficiency in the implementation and administration of the CUSC arrangements. | **​​Positive​**  ​​This code modification will help to provide clarity for future offshore developments and the associated liabilities ahead of connecting to the transmission system where non-radial offshore transmission.​ |
| \*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. | |

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| **Proposer’s assessment of the impact of the modification on the stakeholder / consumer benefit categories** | |
| **Stakeholder / consumer benefit categories** | **Identified impact** |
| Improved safety and reliability of the system | **​​Neutral​**  ​​This will not impact the operation of the transmission system.​ |
| Lower bills than would otherwise be the case | **​​Positive​**  ​​The clarity provided (by this methodology) should provide offshore generators with greater confidence on what the applicable liabilities will be and so reduce investment risk and lower consumer impacts in the event of later user capacity reduction or termination.  ​ |
| Benefits for society as a whole | **Positive**    This facilitates development of an integrated offshore network and the associated consumer benefits compared to radial connections. |
| Reduced environmental damage | **​​Positive​**  ​​This facilitates the development of an integrated offshore network and the associated benefits towards achieving Net Zero.​ |
| Improved quality of service | **​​Neutral​**  ​​Quality of service is not expected to be improved as a result of this code modification.​ |

**Standard Workgroup consultation question:** Do you believe that CMP402 Original proposal better facilitates the Applicable Objectives?

When will this change take place?

### Implementation date

​​​​5 January 2024

​This will be required to allow changes to be implemented into the January 2024 Cancellation Charge Statements process. There is recognition that the AI cost could still be £0 for relevant projects at this point as the Early-Stage Assessment process could take place after the January 2024 statements are issued. Therefore, reopener clauses may be required within generators Construction Agreements to acknowledge.

​This date is proposed as relevant generators will need to know the methodology and requirements as soon as possible, to be built into their business plan for investment decisions. ​

### Date decision required by

​​30 November 2023

​Generators are looking for a decision as soon as possible as this will affect their business plan and investment decisions.​

### Implementation approach

​​Update CUSC legal text with a possible inclusion of a new Part 5 within CUSC Section 15. Implementation required within 10 working days after a decision from the Authority, prior to the above implementation date. ​

**Standard Workgroup consultation question:** Do you support the implementation approach?

Interactions

|  |  |  |  |
| --- | --- | --- | --- |
| ☐Grid Code | ☐BSC | ☐STC | ☐SQSS |
| ☐European Network Codes | ☐ EBR Article 18 T&Cs[[1]](#footnote-2) | ☐Other modifications | ☐Other |

There is also an existing code modification (CMP385) in progress which is reviewing the existing User Commitment arrangements. However, CMP385 does not interact with CMP402 as CMP402 is to incorporate AI into the User Commitment

How to respond

## Standard Workgroup consultation questions

1. Do you believe that CMP402 Original proposal better facilitates the Applicable Objectives?
2. Do you support the proposed implementation approach?
3. Do you have any other comments?
4. Do you wish to raise a Workgroup Consultation Alternative request for the Workgroup to consider?
5. Do you agree with the Workgroup’s assessment that MODXXX does/does not impact the European Electricity Balancing Regulation (EBR) Article 18 terms and conditions held within the [Code]?
6. Do you have any comments on the impact of MODXXX on the EBR Objectives?

## Specific Workgroup consultation questions

1. Xxxxxxxxx

The Workgroup is seeking the views of CUSC/Grid Code/STC/SQSS Users and other interested parties in relation to the issues noted in this document and specifically in response to the questions above.

Please send your response to [cusc.team@nationalgrideso.com](mailto:cusc.team@nationalgrideso.com) [grid.code@nationalgrideso.com](mailto:grid.code@nationalgrideso.com) [stcteam@nationalgrideso.com](mailto:stcteam@nationalgrideso.com) [box.sqss@nationalgrideso.com](mailto:box.sqss@nationalgrideso.com) using the response pro-forma which can be found on the CMP/GC/STC/SQSSXXX modification page.

In accordance with Governance Rules if you wish to raise a Workgroup Consultation Alternative Request please fill in the form which you can find at the above link.

*If you wish to submit a confidential response, mark the relevant box on your consultation proforma. Confidential responses will be disclosed to the Authority in full but, unless agreed otherwise, will not be shared with the Panel, Workgroup or the industry and may therefore not influence the debate to the same extent as a non-confidential response.*

Acronyms, key terms and reference material

|  |  |
| --- | --- |
| **Acronym / key term** | **Meaning** |
| BSC | Balancing and Settlement Code |
| CMP | CUSC Modification Proposal |
| CUSC | Connection and Use of System Code |
| EBR | Electricity Balancing Guideline |
| STC | System Operator Transmission Owner Code |
| SQSS | Security and Quality of Supply Standards |
| T&Cs | Terms and Conditions |
|  |  |
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### Reference material

Annexes

|  |  |
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| **Annex** | **Information** |
| Annex 1 | Proposal form |
| Annex 2 | Terms of reference |
| Annex X |  |
| Annex X |  |
| Annex X |  |

1. If the modification has an impact on Article 18 T&Cs, it will need to follow the process set out in Article 18 of the Electricity Balancing Regulation (EBR – EU Regulation 2017/2195) – the main aspect of this is that the modification will need to be consulted on for 1 month in the Code Administrator Consultation phase. N.B. This will also satisfy the requirements of the NCER process. [↑](#footnote-ref-2)