



# **CUSC Special Panel**

Wednesday 23 November 2022

Online Meeting via Teams

# WELCOME



# New modifications submitted

**CMP406 and CMP407 –  
Allowing consideration of a  
reduced BSUoS fund for  
Fixed BSUoS  
implementation (CMP406 –  
Section 14; CMP407 –  
Section 11)**

**Claire Huxley (on behalf of  
Naomi de Silva) – National  
Grid ESO**



# Critical Friend Feedback – CMP406/CMP407

Code Administrator comments	Amendments made by the Proposer
Clarify justification for urgency against CUSC objective	Included as objective (a)
Minor changes to improve readability	All accepted
Queried how this interacts with CMP361 and CMP362	

# Topics

Why raise a modification?

Urgency

Terms of Reference

# Why raise a new modification?

OFGEM have requested a new modification be raised via their consultation on CMP361/362

This modification has a substantially different effect from CMP361/362

- CUSC 8.16.6 – provides guidance for Panel to reject a proposal if a mod is raised that, in the view of Panel, has “substantially the same effect”
- 406/407 does not have substantially the same effect to CMP361/362
  - 361/362 – BSUoS Reform: Introduction of an ex ante fixed BSUoS tariff & Consequential Definition Updates
  - 406/407 - Allowing consideration of a reduced BSUoS fund for Fixed BSUoS implementation & consequential definition updates
- Effect of 361/362 is to fix BSUoS to ensure certainty and stability aligning with CMP308 which is not the same as....
- Effect of 406/407 is focused on the size BSUoS fund and finding an appropriate P level
- If panel agree this does not have substantially the same effect, this can progress to workgroup and to allow for Final Tariff to be published, and align with CMP308 implementation
- Discussion on impact of rejection of this mod
  - OFGEM can approve or reject CMP361/362. If they reject, a new modification cannot be raised for 2months, unless Panel agree otherwise. This puts implementation of fixed BSUoS at a high risk for 1st April 2023. Rejecting of 361/362 adds more risk as there is no certainty that a new modification will be raised or approved.

# Urgency

Meets urgency criteria a - a significant commercial impact on parties, consumers or other stakeholder(s);

Urgency required in order to allow Final Draft Tariffs to be published – without this, suppliers are unable to price accurately for their tariffs

Urgency required in order select an appropriate P level and therefore build up an appropriate BSUoS industry fund. There is a significant commercial impact to end consumers, as the larger the P level, the higher the tariff. In addition, the lower the P level, the higher the chance of a tariff reset.

Urgency required as moving the costs to one type of industry party via CMP308, means the commercial impacts are higher

# Terms of Reference

Consider EBGL implications	
Consider overall impact on consumers	
Consider the findings of the CMP361/362 minded-to consultations	
Consider the impact of different P levels on consumers and suppliers	
Consider the impact of Tariff Reset on consumers and suppliers	



# 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/sites/default/files/2022-08/Urgency%20Guidance%20-%20FINAL.pdf>

# Proposer's Justification vs Ofgem's Urgency Criteria

The Proposer recommends that this modification should be treated as an Urgent Modification proposal and be assessed by a Workgroup.

Ofgem's Urgency Criteria	Proposer's Justification
a) A significant commercial impact on parties, consumers or other stakeholder(s).	<p>In the ESO's view, it is "a current issue that if not urgently addressed" will have "a significant commercial impact on parties, consumers or other stakeholder(s)" and therefore meets Ofgem's Urgency Criteria (a). The Proposer's view against this criteria is as follows:</p> <p><i>There is a significant impact on parties if we cannot publish a final tariff allowing parties to price their contracts. In addition, there is a knock-on impact to consumer costs with a high BSUoS industry fund. It is important that as much notice as possible is given to BSUoS payers as to the likely tariff from April 2023. The ESO also recognises that even under an Urgent timeline there is a risk that it will not be possible to produce a fixed tariff by the end of December, as such the ESO will commit to produce the tariff as soon as practicable following the decision by Ofgem on the final version of a Fixed BSUoS tariff. An Ofgem decision is required by mid December 2022 to support effective implementation and allow ESO teams time to publish a final tariff under the approved methodology before 01 January 2023. Publication of a final tariff as soon as possible is required to support suppliers cost forecasting and tariff setting.</i></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	n/a

# Does CMP406/CMP407 have substantially the same effect as a Pending CUSC Modification Proposal?

8.16.6 Subject to Paragraph 8.17A.8 and without prejudice to the development of a **Workgroup Alternative CUSC Modification(s)** pursuant to Paragraphs 8.20.13 and 8.20.18, the **CUSC Modifications Panel** shall direct in the case of (a), and may direct in the case of (b), the **Panel Secretary** to reject a proposal pursuant to Paragraph 8.16, other than a proposal submitted by **The Company** pursuant to a direction issued by the **Authority** following a **Significant Code Review** in accordance with Paragraph 8.17.6, if and to the extent that such proposal has, in the opinion of the **CUSC Modifications Panel**, substantially the same effect as:

- (a) a **Pending CUSC Modification Proposal**; or
- (b) a **Rejected CUSC Modification Proposal**, where such proposal is made at any time within two (2) months after the decision of the **Authority** not to direct **The Company** to modify the **CUSC** pursuant to the **Transmission Licence** in the manner set out in such **CUSC Modification Proposal**,

and the **Panel Secretary** shall notify the **Proposer** accordingly.

# CMP406 and CMP407 – the asks of Panel

- **ASSESS** if CMP406/CMP407 has substantially the same effect as a Pending CUSC Modification Proposal. If it does, then **DIRECT** Panel Secretary to **REJECT** CMP406/CMP407 and subsequent asks are not relevant
- **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 by 9am on 24 November 2022
    - Ofgem approval of Urgent treatment sought by 5pm on 25 November 2022
    - 1<sup>st</sup> Workgroup to be held 28 November 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 EBR)	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 EBR
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)

# Timeline for CMP406 and CMP407 – Proposed Urgent Timeline (Recommended by Code Admin) - Workgroup

Milestone	Date	Milestone	Date
Modification presented to Panel	23 November 2022	Code Administrator Consultation (2 working days)	13 December 2022 to 14 December 2022 (5pm)
Workgroup Nominations (2 working days)	23 November 2022 to 25 November 2022 (5pm)	Draft Final Modification Report (DFMR) issued to Panel (1 working day)	15 December 2022
Ofgem grant Urgency	25 November 2022 (5pm)	Panel undertake DFMR recommendation vote	16 December 2022
Workgroups 1 and 2 (assuming Ofgem have granted Urgency)	28 and 29 November 2022	Final Modification Report issued to Panel to check votes recorded correctly	16 December 2022 (2pm)
Workgroup Consultation (2 working days)	1 December 2022 to 2 December 2022 (5pm)	Final Modification Report issued to Ofgem	16 December 2022 (4pm)
Workgroups 3 and 4 - Assess Workgroup Consultation Responses and Workgroup Vote	6 December 2022 and 8 December 2022	Ofgem decision (5 working days)	By no later than 23 December 2022
Workgroup report issued to Panel (1 working day)	12 December 2022	Implementation Date	1 April 2023
Panel sign off that Workgroup Report has met its Terms of Reference	13 December 2022		

# Timeline for CMP406 and CMP407 – Standard with Workgroup (assuming Medium to High or High in prioritisation stack)

Milestone	Date	Milestone	Date
Modification presented to Panel	23 November 2022	Code Administrator Consultation (15 working days)	5 May 2023 to 31 May 2023
Workgroup Nominations (2 working days)	24 November 2022 to 15 December 2022 (5pm)	Draft Final Modification Report (DFMR) issued to Panel (5 working days)	22 June 2023
Workgroups 1 and 2	13 January 2023 and 3 February 2023	Panel undertake DFMR recommendation vote	30 June 2023
Workgroup Consultation (15 working days)	13 February 2023 to 6 March 2023	Final Modification Report issued to Panel to check votes recorded correctly	4 July 2023
Workgroups 3 and 4 - Assess Workgroup Consultation Responses and Workgroup Vote	15 March 2023 and 5 April 2023	Final Modification Report issued to Ofgem	12 July 2023
Workgroup report issued to Panel (5 working days)	20 April 2023	Ofgem decision (5 working days)	TBC
Panel sign off that Workgroup Report has met its Terms of Reference	28 April 2023	Implementation Date	TBC



**Any Other Business**



Close

