

Code Administrator 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 4 May 2023**. 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 Mullen paul.j.mullen@nationalgrideso.com or cusc.team@nationalgrideso.com.

Respondent details	Please enter your details
Respondent name:	Claire Hynes
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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 Code Administrator Consultation questions					
1	Do you believe that the CMP376 Original proposal and/or WACMs 1-11 inclusive better facilitate the Applicable Objectives?	Mark the Objectives which you believe each solution better facilitates:			
		Original	<input checked="" type="checkbox"/> A	<input checked="" type="checkbox"/> B	<input type="checkbox"/> C <input type="checkbox"/> D
		WACM1	<input checked="" type="checkbox"/> A	<input checked="" type="checkbox"/> B	<input type="checkbox"/> C <input type="checkbox"/> D
		WACM2	<input checked="" type="checkbox"/> A	<input type="checkbox"/> B	<input type="checkbox"/> C <input type="checkbox"/> D
		WACM3	<input type="checkbox"/> A	<input type="checkbox"/> B	<input type="checkbox"/> C <input type="checkbox"/> D
		WACM4	<input type="checkbox"/> A	<input type="checkbox"/> B	<input type="checkbox"/> C <input type="checkbox"/> D
		WACM5	<input checked="" type="checkbox"/> A	<input checked="" type="checkbox"/> B	<input type="checkbox"/> C <input type="checkbox"/> D
		WACM6	<input checked="" type="checkbox"/> A	<input type="checkbox"/> B	<input type="checkbox"/> C <input type="checkbox"/> D
		WACM7	<input checked="" type="checkbox"/> A	<input type="checkbox"/> B	<input type="checkbox"/> C <input type="checkbox"/> D
		WACM8	<input checked="" type="checkbox"/> A	<input checked="" type="checkbox"/> B	<input type="checkbox"/> C <input type="checkbox"/> D
		WACM9	<input checked="" type="checkbox"/> A	<input type="checkbox"/> B	<input type="checkbox"/> C <input type="checkbox"/> D
		WACM10	<input checked="" type="checkbox"/> A	<input checked="" type="checkbox"/> B	<input type="checkbox"/> C <input type="checkbox"/> D
		WACM11	<input checked="" type="checkbox"/> A	<input checked="" type="checkbox"/> B	<input type="checkbox"/> C <input type="checkbox"/> D
<p>Statement: This change will provide the system operator with the tools to remove stalled projects from the connection queue that will better enable an efficient connection process for projects which are demonstrably progressing towards completion. It also provides greater clarity to the developer on the System Operators project progression expectations at different stages of the process and the enabling of constructive conversations with the system operator on the evidence of any challenges faced. We also recognise and support the alignment of transmission and distribution connection queue milestones to provide a whole system connection management process which is in keeping with the ESO's new role as Future System Operator (FSO).</p> <p>Depending on how it is implemented, this change may provide NGESO with significantly increased administration and legal challenge and has the potential to adversely impact on the attraction of GB for investment. A measured and common sense approach should be taken to the implementing of connection queue milestones to prevent projects being terminated for reasons beyond the control of a developer. Projects of different technologies or different land/capacity sizes have quite different timescales for going through all of the milestones. If a perception of risk develops or if in actuality there is a material risk of projects being terminated without proper discussion of their evidence for delay, the risk is</p>					

	<p>likely to be priced in, which will ultimately result in a greater cost to the consumer. This would introduce new and unnecessary risks into project development which only adds to the deteriorating landscape for investment in the UK power sector over the last 12 months.</p> <p>The System Operator should increase their awareness of projects '<i>routes to market</i>' and how they interact with the connection queue milestones for consideration when a termination decision has been escalated to senior management under connection queue milestones 5-8.</p> <p>Given the grid delays that are currently being experienced by developers (e.g. grid offers for connection in >10 years' time) we recognise the need to evolve and address the challenges, and urge NGESO to ensure that this proposal is implemented in such a way that it provides a more efficient connection queue and acts as a disincentive for speculative/stalled projects.</p> <p>(a) The efficient discharge by the Licensee of the obligations imposed on it by the Act and the Transmission Licence;</p> <p>The original and WACMs 1, 2, 5, 6, 7, 8, 9, 10 and 11 better facilitate objective (a) as the development of connection queue management milestones to manage projects through the connection process prevents stalled projects blocking capacity and ensures a more efficient connection process for proceeding parties. Thus, more efficiently discharging the transmission licence obligation to develop and maintain an efficient, co-ordinated and economical system of electricity transmission.</p> <p>WACM's 3 and 4 seek to introduce the requirement to evidence land rights earlier, within either 3 months or 6 months of the connection agreements. As onshore wind farms and solar projects need to undertake individual negotiations with landowners which do not have statutory timelines associated with them, we consider that these projects may be disadvantaged in meeting the evidence requirements of milestone three and therefore these WACMs will lead to an unfair playing field and not to a more efficient, co-ordinated and economical system of electricity transmission. Evidence for land rights would be better considered as part of a holistic review of the connection process under Connection Reform. Please see Objective (b) for further detail.</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>In summary, WACMs, 2,3,4,6,7 and 9 do not facilitate objective (b). Objectives 1,5, 8, 10 and 11 facilitate objective (b), please see the rationale below.</p> <p>The proposed implementation approach to WACMs 2, 4, 6, 7 and 9 does not better facilitate effective competition. The User when developing an offshore wind farm in the 5+ year milestones timeframe, negotiates it's procurement in the full knowledge that its construction agreement with National Grid is already agreed – more than two years before the</p>
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	<p>completion date. This means that if the associated implementation approach is approved, an offshore wind farm developer will have signed third party procurement contracts with its supply chain providers that may not meet the requirements of retrospectively applied milestones. As a result, there is potential for a financial impact, or even project delay, to a developer's third party contracts when it has signed a connection agreement with the existing terms and conditions and the terms of the agreement are changed afterwards. This extra unforeseen cost could make some projects less competitive against others that had sufficient notice of the change. We do not support creating a precedent that allows for modifications to change terms of contracts retrospectively that have already been agreed. This implementation approach would introduce a new risk for developers considering investing in the UK market.</p> <p>WACM 3 and 4 does not better facilitate CUSC objective (b). WACM 3 and 4 seek to introduce the requirement to evidence land rights earlier, within either 3 months or 6 months of the connection agreement. We welcome this approach for offshore wind and agree with the standard legal text for the original proposal which includes submission of a letter from the Crown Estate as proof that land rights/sea bed lease has been agreed for the site of the offshore wind farm project. We urge NGESO to consider how implementation of this, if successfully approved by Ofgem or taken forward under GB Connection Reform, interacts with any upcoming seabed leasing rounds (after Celtic Sea) and work with The Crown Estate / Crown Estate Scotland and DESNZ (on their Future Frameworks policies) to ensure that unintended consequences are avoided. However, for onshore wind and solar, there is often long negotiations with private landlords for land rights pertaining to the site which do not have statutory timelines associated other than in the event of compulsory purchase rights being exercised. Onshore wind developers are unlikely to have sufficient control over land rights coinciding within 3 or 6 months of a connection offer as the timeframe would be out of alignment with the appointment of land agents and the completion of negotiation. "Heads of Terms (HoTs)" which sets out the skeleton terms being negotiated by both Parties as evidence for the land rights milestone was not accepted as sufficient evidence. It is worth noting that the Distribution Network Operators (DNOs) accept letters from the landowner confirming that they are in negotiations with the developer about an onshore wind / solar PV project on their land, and consent to the developer submitting an application for a grid connection. Such a letter would be similar to the Crown Estate confirming that the developer has been awarded seabed rights, i.e. in advance of actually signing formal legal agreements for those seabed rights (which could take longer than 3-6 months). As a result, we consider that onshore wind and solar could be competitively disadvantaged by WACM 3 and 4 versus other technologies such as offshore wind when required to provide the land rights for the site in this earlier timeframe and do not consider that it better facilitates CUSC Objective (b). Connection reform is seeking to redesign the connections process for a variety of technologies connecting</p>
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	<p>to the grid. We suggest that this may be a better vehicle within which to consider the evidence for land rights to aid in optimising the new connection process and reducing administration from speculative applications.</p> <p>All changes proposed have the potential to adversely impact on the attraction of GB for investment and require careful implementation by NGESO. An inadvertent impact of this change, is that the connection queue milestones are likely to interact with timescales for projects to secure investment. As routes to market such as merchant, CfD, capacity market and the proposed CCUS Dispatchable Power Agreements (DPAs) based on the CfD AR4 are not within the purview of the NGESO, we would encourage NGESO to appoint an independent, qualified consultant to carry out an impact assessment to fully understand the interaction between these milestones and the routes to market to gauge any investment risk introduced to the market before submitting the twelve proposals to Ofgem for decision.</p> <p>A project, whilst seeking a route to market and investment decision, could fall out of compliance with the connection queue milestones due to a government support scheme timetable change. For this reason, we welcome the WACM 11 proposal that allows a project who fails to secure a regulatory subsidy the first time to be allowed to submit a contract modification application for a second opportunity to apply for a regulatory support scheme. This proposal provides greater flexibility to developers seeking investment but also may discriminate by favouring government support schemes over other routes to market which an impact assessment could better determine.</p> <p>In the absence of an impact assessment, we consider that the modifications of the original and WACMs 1, 5, 8, 10 and 11 supports effective competition by providing greater clarity to the User on the Company's project progression expectations at different stages of the process and introduces a control mechanism to allow NGESO to prevent stalled projects that could impact other connectees. Furthermore the implementation approach of these WACMs applies to new connection applications and modifications applications ensuring that no project is adversely impacted that has already agreed terms.</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>All changes are neutral against CUSC objective (c).</p> <p>We do not consider that the original or any of the WACMs impact on the Compliance with the Electricity Regulation and any relevant legally binding decision of the European Commission and/or the Agency.</p> <p>(d) Promoting efficiency in the implementation and administration of the CUSC arrangements.</p>
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2	Do you support the proposed implementation approach?	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>There is more than one implementation date and approach for the one response box. Therefore our views on whether we agree with the implementation approach is detailed below.</p> <p>Yes, we are supportive of the change being implemented either within 10 Working Days or six months of Authority decision for the original and WACMs 1, 3, 5, 8, 10 & 11. The preferred implementation approach is for the change to be applied to new connection applications and projects that have chosen to apply to modify their application or agreement to vary (atv). In the GB Connection Reform Case for Change¹ December 2022 presentation, the System Operator evidences that 42% of projects between 2018 and 2022 fell out of the connection queue and that 57% of projects contracted had undertaken a modification application, in some cases multiple times. Therefore, we consider that the connection queue milestones will, in time, be applied to the majority of connection applications without unforeseen consequences for the developer.</p> <p>No, we consider that the proposed implementation approach to WACMs 2, 4, 6, 7 and 9 which inserts the connection queue milestones in to the construction agreement for projects with a completion date more than two years from the changes implementation date does not better facilitate effective competition or fairness of treatment. There is a risk that the developer has agreed third party contracts that do not meet the later milestone timeframes which could result in a financial impact when the existing terms and conditions of this agreement are changed. This extra unforeseen cost would make this project less competitive against another project that is earlier in the process and therefore has had sufficient notice of the change. We do not support creating a precedent that allows for modifications to change terms of contracts retrospectively that have already been agreed. This implementation approach would introduce a new risk for developers considering investing in the UK market.</p>

¹ [GB Connection Reform Case for Change Report](#) (Slide 13)

3	Do you have any other comments?	<p>NGESO should delineate the percentage of capital contribution evidence that would be accepted for milestone 7 '<i>Project Commitment</i>' and whether a combination of evidence would be accepted in it's guidance document. Further consideration should be given to the concept of providing a land lease at the grid application stage in tandem with the redesign of the connection process regardless of the outcome of this change. In the U.S. market, there are system operators, such as the California Independent System Operator (CAISO) who run a generation interconnection process that require project applications to pay a fee in lieu of site control (land rights) or alternatively provide the land rights for the site at the connection application stage. We suggest that NGESO undertakes a comprehensive review of the site control evidence required to ensure fair treatment against the structure of the redesigned connection process and consider the advantages and disadvantages of the site control options and any lessons learnt from the U.S. system operators under GB Connection Reform.</p>
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