

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: | Charles Deacon |
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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 | | | | | |
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| 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 checked="" type="checkbox"/> D |
| | | WACM1 | <input checked="" type="checkbox"/> A | <input checked="" type="checkbox"/> B | <input type="checkbox"/> C <input checked="" type="checkbox"/> D |
| | | WACM2 | <input checked="" type="checkbox"/> A | <input checked="" type="checkbox"/> B | <input type="checkbox"/> C <input checked="" 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 checked="" type="checkbox"/> D |
| | | WACM6 | <input checked="" type="checkbox"/> A | <input checked="" type="checkbox"/> B | <input type="checkbox"/> C <input checked="" type="checkbox"/> D |
| | | WACM7 | <input checked="" type="checkbox"/> A | <input checked="" type="checkbox"/> B | <input type="checkbox"/> C <input checked="" type="checkbox"/> D |
| | | WACM8 | <input checked="" type="checkbox"/> A | <input checked="" type="checkbox"/> B | <input type="checkbox"/> C <input checked="" type="checkbox"/> D |
| | | WACM9 | <input checked="" type="checkbox"/> A | <input checked="" type="checkbox"/> B | <input type="checkbox"/> C <input checked="" type="checkbox"/> D |
| | | WACM10 | <input type="checkbox"/> A | <input type="checkbox"/> B | <input type="checkbox"/> C <input type="checkbox"/> D |
| | | WACM11 | <input type="checkbox"/> A | <input type="checkbox"/> B | <input type="checkbox"/> C <input type="checkbox"/> D |
| | | General comments and observations: | | | |
| <ul style="list-style-type: none"> - We support measures to streamline and progress the connections queue more quickly and support the principle of introducing queue management. - ESO already has powers to issue Mod Notices for Appendix J non-compliance, which can result in termination without a Mod App; or to terminate projects that Mod App past the backstop date. Appreciate the new powers are more robust and allow for timelier termination, but the Code Admin report mentions that existing powers are rarely used. Will existing provisions be exhausted? - It is still unclear how IDNO parties will be treated and whether their offers will be subsequent to these. - Third party works, in the absence of codification at both D and T, can hold up projects. For projects requiring these, a similar milestone to that of M4 at distribution, which has been excluded, should be included. Or delays due to third party works should be a valid exception. | | | | | |

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| | | <ul style="list-style-type: none"> - A specific exception relating to planning delays by an LPA/Sec of State should be included, for ultimate clarity. Exceptions could have more specific examples. - It remains unclear why projects with a longer lead time should be allowed a proportionally shorter time to gain consents, particularly if the long connection date is due to ESO/TO limitation. Particularly in the case of the 5+ year projects, consent must be gained 2.5 years before energisation. In many cases consent only lasts for 3 years, so this does not leave much wriggle room for exceptional delay. - It remains unclear why land rights should have longer to run than consents, as in many cases a developer would wish to procure these before, or alongside, consenting. - It remains unclear why a shorter remedy period of 60 days has been chosen, when “simpler” DNO projects have 180 days to remedy. - A one-size fits all consenting approach for all technologies still does not feel appropriate. - TOs must also be held to the same standard of milestone, to avoid TO-led delays to projects. This should include methods to hold TOs to account for such delays. - Supportive of using CUSC appeals process, with measures to ensure User is not unfairly impacted if the appeal succeeds; and that others are not unfairly impacted if the appeal fails (i.e. not preventing applications in that area). - Customers should be able to Mod App from a BCA to an IDNO connection (with/without BEGA) without loss of queue position. The material impact of connection is the same, while facilitating competition, cheaper and quicker connections and preventing the proliferation of private, underutilised assets. <p>Specific comments:</p> <p>Original:</p> <ul style="list-style-type: none"> - Mostly covered above, supportive of the distinction between “will” and “right to” in relation to termination on later milestones. |
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| | | <ul style="list-style-type: none"> - Applying to all new agreements/Mod Apps is fairest, but may have a limited impact on existing stalled projects, unless ESO uses their existing powers to issue Mod Notices for Appendix J non-compliance. <p>WACM1:</p> <ul style="list-style-type: none"> - M6 proposal, submit is preferred. Agree is too subjective and can leave Users beholden to TO delay/engagement. Submit, to a defined criteria, should be sufficient, with the onus then on the TO to agree. - Implementation comments on Original apply. <p>WACM2:</p> <ul style="list-style-type: none"> - As WACM1. - Applying to all agreements in eventuality, will have the greatest effect on enhancing the stalled queue. However, care should be given to contractual fairness/retrospectivity concerns. <p>WACM3:</p> <ul style="list-style-type: none"> - M3 proposal, this is unworkable in almost all circumstances, with land work beginning in earnest after a connection offer is accepted and reviewed in most cases and often being one of the longest lead items of development. - Implementation comments on Original apply. <p>WACM4:</p> <ul style="list-style-type: none"> - As WACM3, implementation comments on WACM2 apply. <p>WACM5:</p> <ul style="list-style-type: none"> - Bilateral negotiation is to be encouraged as much as possible, so this is a good proposal. - Implementation comments as per original apply. <p>WACM6:</p> <ul style="list-style-type: none"> - As WACM5, with Implementation comments as per WACM2. <p>WACM7:</p> <ul style="list-style-type: none"> - Comments provided on implementation under WACM2 <p>WACM8:</p> |
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| | | <ul style="list-style-type: none"> - Dynamic queue management to be encouraged, subject to impact and workload on NGESO. Systems and processes to facilitate would need to be well defined ahead of implementation. <p>This allows projects that are not dead, but slightly stalled, to still progress later. Causing a stalled project to re-apply could result in other key items like consent and land rights falling away, resulting in stranded/lost investment, which could deter future investment and competition. Moving behind projects that have achieved the last milestone makes sense. If the project continues to stall, termination can then be explored.</p> <ul style="list-style-type: none"> - Implementation comments as per original. <p>WACM9:</p> <ul style="list-style-type: none"> - As per WACM8, with implementation comments as per WACM2. <p>WACM10:</p> <ul style="list-style-type: none"> - Unclear of the value of this proposal. Dates are provided at application and the ESO tries their best to match them. However more bilateral conversations are welcome. - Implementation comments as per original. <p>WACM11:</p> <ul style="list-style-type: none"> - Sensible to be applied if there is a policy change or delay to an auction, however missing out on an auction is likely to mean a project is less competitive and less likely to bring benefit to consumers. - Would question the scope of allowing the exception to be used twice. If a project misses out on an essential auction more than once, it may not be viable. - Implementation comments as per original <p>Of the proposed options, the optimum solution appears to be:</p> <p>Original + changes proposed in WACM2, WACM6 and WACM9</p> |
| 2 | Do you support the proposed | <input checked="" type="checkbox"/> Yes <input checked="" type="checkbox"/> No |

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| | implementation approach? | Neutral. To be implemented as soon as possible. In terms of fairness, this should be applied to all new applications with visibility of the change only; however in terms of speeding up the queue, it would make sense to apply to all projects eventually, if legal concerns around retrospectivity can be resolved. If this is not the case, ESO should be using their Mod Notice powers to enforce Mod Apps for Appendix J non-compliance, where the milestones can then be applied. |
| 3 | Do you have any other comments? | Please clarify how this will apply to IDNO contracts. Will we subject to the same exclusions as DNO contracts? |