

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:	Sarah Graham
Company name:	Ocean Winds
Email address:	Sarah.Graham@oceanwinds.com
Phone number:	07464675593

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 checked="" type="checkbox"/> A</td> <td><input type="checkbox"/> B</td> <td><input type="checkbox"/> C</td> <td><input checked="" type="checkbox"/> D</td> </tr> </table> <p>A – we agree that some form of queue management better facilitates this objective. However, we disagree with terminating consented projects that are proceeding slower than the Milestones set out in the Original Proposal. We believe that some form of dynamic queue management is required.</p> <p>B – we think that there is a risk that the proposed approach hinders competition in the generation of electricity as it may result in the termination of Construction Agreements for more challenging low carbon generation projects or projects that are proceeding (albeit slower than the Milestones set out in the Original Proposal).</p> <p>C – neutral.</p> <p>D – we agree that some form of queue management better facilitates this objective. However, we disagree with terminating consented projects that are proceeding slower than the Milestones set out in the Original Proposal. We believe that some form of dynamic queue management is required.</p> <p>We acknowledge that there is a significant amount of TEC in the queue and that a process is required to manage this. However, we do not consider the Original Proposal to be the preferred approach as it does not recognise that more challenging projects will take longer to develop and deliver, or that projects could encounter delays for entirely legitimate reasons. The delivery of offshore wind in the UK shows that projects will naturally be developed in a merit order, with the more straight-forward projects connecting first, and the more technically challenging taking longer while the industry and supply chain gain knowledge and the necessary technological advancements are achieved. As noted in the consultation: “However, it is possible that the Queue Management process may lead to termination of some more challenging low carbon generator projects or network services projects, which could result in more continuing reliance on fossil fuel-based providers.” We believe this statement acknowledges a significant risk if the Original Proposal is implemented and this would not be of benefit to the consumer.</p>	Original	<input checked="" type="checkbox"/> A	<input type="checkbox"/> B	<input type="checkbox"/> C	<input checked="" type="checkbox"/> D
Original	<input checked="" type="checkbox"/> A	<input type="checkbox"/> B	<input type="checkbox"/> C	<input checked="" type="checkbox"/> D			

		<p>We think that the Applicable Objectives would be better facilitated by an alternative solution that:</p> <ul style="list-style-type: none"> only defines milestones M1 to M3 at time of offer, and terminates projects that do not meet these milestones (subject to the exceptions), defines the later milestones after the project has obtained planning consent. implements dynamic queue management. Consented projects that fail to reach the later milestones should not be terminated if they can demonstrate that the project is actively being progressed; dynamic queue management should be implemented to enable projects that are ready to connect to connect ahead of projects that require longer timescales for delivery.
2	Do you support the proposed implementation approach?	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>The implementation approach may need to be reassessed based on the final proposal recommended by the workgroup. For example, if dynamic queue management is proposed then all parties with a contracted Construction Agreement would need to have Queue Management implemented to allow effective management of the queue.</p> <p>It is understood that the TEC Amnesty has been extended to April 2023. We consider that it would be beneficial to extend the amnesty, or hold another TEC amnesty, at the point of implementing.</p>
3	Do you have any other comments?	<p>We agree that some form of queue management is required. However, we disagree with terminating consented projects that are proceeding slower than the Milestones set out in the Original Proposal. We believe that some form of dynamic queue management is required.</p>
4	Do you wish to raise a Workgroup Consultation Alternative Request for the Workgroup to consider?	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>We expect that other respondents to the consultation will propose similar Alternative Requests to that set out below. We are happy to liaise with these respondents to agree which party should raise the Alternative Request and in what form to minimise the number of Alternative Requests to be considered by the workgroup.</p> <p>We would propose an Alternative Request that:</p> <ul style="list-style-type: none"> only defines milestones M1 to M3 at time of offer, and terminates projects that do not meet these milestones (subject to the exceptions), defines the later milestones after the project has obtained planning consent.

		<ul style="list-style-type: none"> implements dynamic queue management. Consented projects that fail to reach the later milestones should not be terminated if they can demonstrate that the project is actively being progressed; dynamic queue management should be implemented to enable projects that are ready to connect to connect ahead of projects that require longer timescales for delivery.
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Specific Workgroup Consultation questions

1	Do you agree with the Milestone durations proposed? Please provide the rationale for your response.	<p>The timescales defined for obtaining planning consent appear reasonable and the timescales for constructing the project once project commitment is achieved are reasonable; the key risk is the potential timescales between obtaining planning consent and reaching project commitment due to the challenge with being awarded a contract for difference/obtaining route to market and supply chain constraints.</p> <p>We suggest that only milestones M1 to M3 are defined at time of offer and the later milestones are defined after the project has planning consent.</p> <p>Applying the proposed milestones to the original Construction Agreement for Moray East Offshore Wind Farm would have resulted in it being terminated for failing to meet Milestone M7 due to not being awarded a Contract for Difference in the first auction (note this is assuming that it would have obtained an exception to Milestone M2 due to the 10-month delay in the Scottish Government determination process). Moray East is now a successful offshore wind farm providing 900MW of renewable generation. It would not have been possible to deliver first power from Moray East in summer 2021 if the Construction Agreement had been terminated in autumn 2017.</p> <p>We believe that there will be a number of similar such case studies where projects have not met milestones for legitimate reasons and have amended connection dates by agreement with NGENSO (and the relevant TO) as a result.</p> <p>Whilst it could be argued that securing a CfD (or otherwise securing route-to-market) and commencing construction is within a generator's control, this is not solely within a generator's control due to factors such as a CfD auction timescales and budgets, wider energy market conditions and global supply chain constraints (including increasing competition from other markets).</p>
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		<p>We consider that it is not in interests of: (i) the consumer; and (ii) the sustainable development of the renewable power generation sector in the UK generally, to introduce strict termination provisions where projects have encountered legitimate delays not solely in their control as outlined above. More specifically:</p> <ol style="list-style-type: none"> 1. Termination of grid connection agreements associated with relatively mature projects which are still being actively developed would reduce the pipeline of new generating capacity and reduce CfD competition. 2. Including termination rights of the nature proposed would represent a very material increase in development risk profile of projects, resulting in increased risk premia and resulting consumer cost impact.
2	<p>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.</p>	<p>We do not have a strong view on this.</p> <p>Given that projects “join the queue” on the effective agreement date it would seem reasonable that the time period for the milestone durations should be from the Contracted Completion Date back to the date the Offer becomes effective.</p>
3	<p>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</p>	<p>It is not clear why a different approach has been adopted for transmission for the timing of later milestones (M5 to M8). We believe that determining the dates for the later milestones at the outset, plus the “will terminate” rights proposed creates undue discrimination for transmission connected projects.</p> <p>We suggest that only milestones M1 to M3 are defined at time of offer and the later milestones are defined after the project has planning consent.</p>

	rationale for your response.	
4	Do you agree with the evidence requirements proposed? Please provide the rationale for your response.	<p>It is noted that the draft legal text results in the Milestones being applied to both the generator and OTSDUW assets for offshore wind farms. We consider that for offshore wind farms to be treated on an equitable basis with other generators in the queue Milestones M1, M2 and M3 should apply to generator assets only.</p> <p>For milestone M2, if OTSDUW assets are included, we consider that planning permission in principle is sufficient to meet the requirements and this should be clearly stated in the evidence requirements. We note that planning permission in principle is often obtained for reasons of efficient project development and therefore the option to take that route should not be precluded.</p> <p>For milestone M3 we consider that the Crown Estate option agreement is sufficient to meet the requirements, and this should be clearly stated in the evidence requirements.</p> <p>For milestone M3 it would be clearer to update the legal text to state that it relates to the site of the installation, e.g., Power Station, only and does not apply to the OTDSUW (and we think this should apply to M1 and M2 too).</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>If works are suspended and then the User is successful in their appeal, the User would likely be delayed in connecting due to the suspension of the works. If the User is terminated, then they are liable for the Cancellation Charge. Perhaps the User could have the options – (i) works are suspended during appeal and they acknowledge they may be delayed; (ii) works continue during appeal and they recognise that the Cancellation Charge is calculated on the date that the termination is upheld by the appeal/dispute process.</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>We do not have a view on this.</p>

7	<p>Do you agree with the circumstances when Milestone Dates will be changed – the “exceptions”? Please provide the rationale for your response.</p>	<p>We suggest that only milestones M1 to M3 are defined at time of offer and the later milestones are defined after the project has planning consent. We disagree with terminating consented projects that are proceeding slower than the Milestones set out in the Original Proposal. We believe that some form of dynamic queue management is required.</p> <p>We agree with the exceptions listed but consider the exception “Planning appeals and third-party challenges in relation to the User’s Consents” to be too narrow. It is possible for the planning authority to delay the determination of an application. A project should obtain an exception if the planning authority takes longer than the 18 months allowed for in the Milestone durations to provide a determination or longer than any statutory timescales to provide a determination.</p> <p>We believe that exceptions should also include:</p> <ul style="list-style-type: none"> • failing to be awarded a contract for difference (or similar) following a compliant bid. • energy market reform impacting route to market. • supply chain issues/procurement lead times that result in a requirement to revise the construction programme. <p>It is stated that for any milestone that is missed due to an exception the ESO will issue a new milestone date for the missed milestone. It does not state that subsequent milestones will be revised / extended. If one milestone is delayed it is likely that subsequent milestones will also be delayed. We consider if an exception occurs the subsequent milestones should be revised accordingly.</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>We agree that some form of queue management is required and that this may terminate projects that fail to achieve Milestones M1 to M3. However, we disagree with terminating consented projects that are proceeding slower than the Milestones set out in the Original Proposal. We believe that some form of dynamic queue management is required.</p> <p>We acknowledge that there is a significant amount of TEC in the queue and that a process is required to manage this. However, we do not consider the Original Proposal to be the preferred approach as it does not recognise that more challenging projects will take longer to develop and deliver, or that projects could encounter delays for entirely legitimate reasons. The delivery of offshore wind in the UK shows that projects will naturally be developed in a merit order, with the more straight-forward projects</p>

		<p>connecting first, and the more technically challenging taking longer while the industry and supply chain gain knowledge and the necessary technological advancements are achieved. As noted in the consultation: “However, it is possible that the Queue Management process may lead to termination of some more challenging low carbon generator projects or network services projects, which could result in more continuing reliance on fossil fuel-based providers.”</p> <p>We believe this statement is a significant risk if the Original Proposal is implemented and this would not be of benefit to the consumer.</p>
9	Do you agree with the proposed impacts on Milestones for different types of Modification Applications? Please provide the rationale for your response.	<p>We have no specific comments on the proposed impacts.</p> <p>The example in the table states “User is required to send Modification Application after an exception”. It is not clear what is meant by this example. Our view is that after an exception the missed milestone and subsequent milestones should be moved by the ESO without Modification Application, e.g., via a notice. A Modification Application would only be required if the User needs to move the Completion Date.</p>
10	Does the CMP376 Original proposal or any of the potential alternative solutions impact your business and/or end consumers. If so, how?	<p>Yes, the Original Proposal impacts our business as it creates additional uncertainty in the development of our offshore wind farm projects since they risk termination if they are proceeding slower than the Milestones set out in the Original Proposal.</p> <p>Moray East Offshore Wind Farm is an example of a successful project that would have had its Construction Agreement terminated if the Milestones set out in the Original Proposal had been applied to it.</p> <p>We agree that some form of queue management is required and that this may terminate projects that fail to achieve Milestones M1 to M3. However, we disagree with terminating consented projects that are proceeding slower than the Milestones set out in the Original Proposal. We believe that some form of dynamic queue management is required.</p> <p>It seems disadvantageous to apply the Original Proposal to radial offshore wind farms only. This puts radial offshore wind farms (e.g., in Scotwind) at a disadvantage to the wind farms that are connecting via coordinated networks. Radial wind farms face the same consenting, route to market and supply chain challenges as non-radial wind farms yet face termination if milestones are missed, whereas non-radial wind farms would not need to</p>

		demonstrate any progress in developing their project to maintain their grid connection.
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