

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

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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 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 type="checkbox"/>A</td> <td><input type="checkbox"/>B</td> <td><input type="checkbox"/>C</td> <td><input type="checkbox"/>D</td> </tr> </table> <p>A – Active, sustained queue management with changes in queue position would align with this objective. This proposal will result in an indiscriminate cull of projects that miss the proposed milestone durations.</p> <p>B – This proposal represents another barrier to the successful delivery of decarbonised generation and hinders competition.</p> <p>C – neutral.</p> <p>D – neutral.</p>	Original	<input type="checkbox"/> A	<input type="checkbox"/> B	<input type="checkbox"/> C	<input type="checkbox"/> D
Original	<input type="checkbox"/> A	<input type="checkbox"/> B	<input type="checkbox"/> C	<input type="checkbox"/> D			
2	Do you support the proposed implementation approach?	<p><input checked="" type="checkbox"/>Yes</p> <p><input type="checkbox"/>No</p>					
3	Do you have any other comments?	<p>Queue management as means of enabling efficient network access and preventing TEC sterilisation is an important concept. These objectives are not reflected in the Original Proposal.</p> <p>The list of exceptions does not adequately reflect the factors, external to a project's control, that can result in delays.</p>					
4	Do you wish to raise a Workgroup Consultation Alternative Request for the Workgroup to consider?	<p><input type="checkbox"/>Yes</p> <p><input checked="" type="checkbox"/>No</p> <p>Whilst we will not be raising an alternative request, we suggest that the Workgroup consider the following for any alternatives that are raised:</p> <ul style="list-style-type: none"> • Milestones should change with changes to Completion Date. • Termination should not be NGESO's first recourse, a succession of "falls" in queue position is a more appropriate response. • A broadening of the list of exceptions to include; actions of other CUSC parties, delays from local planning authorities missing statutory deadlines. • A clear process and stated criteria for determining when the TO or ESO are responsible for a delay. • Softening of later milestones after the project has obtained planning consent. Consented projects that fail to reach the later milestones should not be terminated if they can demonstrate that the project is actively being progressed. 					

Specific Workgroup Consultation questions

1	Do you agree with the Milestone durations proposed? Please provide the rationale for your response.	<p>The pre – consent milestones, M1, M2 and M3, are not long enough to address all the planning requirements.</p> <p>For solar PV and battery energy storage Users, further consideration is needed. These projects tend to secure a grid connection 6 months to a year before planning consent is submitted due to the protracted and involved requirements.</p>
2	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>The capacity connection queue is only changed when a User contracts with NGENSO i.e., offer acceptance, we believe that the effective time period should be from the Contracted Completion Date back to the date the Offer is accepted by the User.</p>
3	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 rationale for your response.	<p>It is not clear why there is a difference between Distribution and Transmission projects with regards to Termination Rights.</p> <p>We don't agree with the ENA approach of having a non – exclusive list of exceptions but believe that this proposal takes an approach that is too far in the opposite direction. Consideration should be given to other factors outside the generator's control for example delays from planning authorities, other CUSC parties, government support mechanisms. In recent years, numerous planning authorities have failed to meet their advertised reporting timelines. This has a significant impact on development programmes.</p> <p>The Original Proposal, if implemented, would likely result in unduly discriminatory treatment of generators contracted to connect to the NETS.</p>
4	Do you agree with the evidence requirements proposed? Please provide the rationale for your response.	<p>Milestone 5: Submission of the Contestable Design Works is the start of an iterative process. TO acceptance of Contestable Design is a more appropriate milestone, or at least should be an additional milestone, in which case the evidence would be confirmation that a Contestable Design has been accepted. If this Milestone is</p>

		<p>intended to encompass User Self Build arrangements, it should be made explicit.</p> <p>Milestone 6: User's Construction Programme is appropriate but "as agreed with Transmission Licensee" is only appropriate in relation to the interface between User Works and Transmission Connection Asset Works, Infrastructure Works, One – Off Works or any other Works that the Transmission Licensee might be undertaking relevant to the connection.</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.</p> <p>If the User is terminated, then they are liable for the Cancellation Charge.</p> <p>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>An independent panel, familiar with the CUSC, should be available to evaluate appeals / disputes on a reasonably rapid basis.</p>
7	Do you agree with the circumstances when Milestone Dates will be changed – the "exceptions"? Please provide the rationale for your response.	<p>The exceptions list is too narrow. The workgroup must consider the following additional exceptions;</p> <ul style="list-style-type: none"> • Delays due to other CUSC parties; • delays in the planning process stemming from the planning authority; • failing to be awarded a subsidy following a compliant bid; • route to market is temporarily removed. <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>

		<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>
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>Termination should not be the first recourse in this scenario. A drop in queue position is a much more appropriate means of addressing missed milestones and not rectifying with 60 days.</p>
9	<p>Do you agree with the proposed impacts on Milestones for different types of Modification Applications? Please provide the rationale for your response.</p>	<p>We strongly disagree with the possibility that a Modification Application to change the Completion Date of a project will not affect the milestones.</p> <p>In our view, Modification Applications to move Completion Dates should aid the implementation of dynamic queue management leading to efficient network access. Requiring Users to adhere to milestones that are likely now impossible to meet is counterproductive.</p> <p>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	<p>Does the CMP376 Original proposal or any of the potential alternative solutions impact your business and/or end consumers. If so, how?</p>	<p>The Original Proposal would significantly impact our business as it creates additional uncertainty in the development of solar PV, battery energy storage systems, onshore wind farm and floating PV projects. The risk of termination complicates the development of new opportunities, in what is already a very challenging environment for new grid connections.</p> <p>Dynamic 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>