

Workgroup Consultation Response Proforma

CMP435: Application of Gate 2 Criteria to existing contracted background

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 06 August 2024**. 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 cusc.team@nationalgrideso.com

Respondent details	Please enter your details	
Respondent name:	Mark Field	
Company name:	Sembcorp Energy (UK) Limited	
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Which best describes your organisation?	<input type="checkbox"/> Consumer body <input checked="" type="checkbox"/> Demand <input type="checkbox"/> Distribution Network Operator <input checked="" type="checkbox"/> Generator <input type="checkbox"/> Industry body <input type="checkbox"/> Interconnector	<input type="checkbox"/> Storage <input checked="" type="checkbox"/> Supplier <input type="checkbox"/> System Operator <input type="checkbox"/> Transmission Owner <input type="checkbox"/> Virtual Lead Party <input type="checkbox"/> Other

I wish my response to be:

(Please mark the relevant box)

☒ **Non-Confidential** (*this will be shared with industry and the Panel for further consideration*)

☐ **Confidential** (*this will be disclosed to the Authority in full but, unless specified, will not be shared with the Workgroup, Panel or the industry for further consideration*)

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*

- d) *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 better facilitates the Applicable Objectives?	<p>Mark the Objectives which you believe the Original solution better facilitates:</p> <p>Original <input checked="" type="checkbox"/>A <input type="checkbox"/>B <input checked="" type="checkbox"/>C <input checked="" type="checkbox"/>D</p> <p>A: The introduction of a structured, gated process, as envisaged, will prioritise those contracted background projects that are better prepared, well managed and ready to advance.</p> <p>B: The proposed process should allow viable projects, that are currently progressing their plans, to be able to connect more quickly. However, the application of new ESO powers to be able to prioritise some projects over others may hinder true competition in some cases.</p> <p>D: This more coordinated and rigorous approach to connections should result in a more effective capacity allocation, ultimately leading to the delivery of some tangible benefits</p>
2	Do you support the proposed implementation approach? (See page 56)	<p><input checked="" type="checkbox"/>Yes <input type="checkbox"/>No</p> <p>Subject to the availability and content of all proposed new methodologies and relevant guidance documentation, that the Workgroup has yet to see, together with an appropriate regulatory framework to cover these new proposals.</p> <p>It is important that the full scope of the proposed new Connection Reform is visible in order to provide a clear and complete view and for parties to be able to make fully informed decisions regarding their projects.</p> <p>We support the proposal that contracted parties that have a contracted connection date and connection point will need to submit, evidence via a Gate 2 Self-Declaration in order to maintain that position by 31st January 2025.</p>
3	Do you have any other comments?	<p>We would ask that the ESO maintains a close watch on any successful connection reform modifications as they embed. Clear communication of potential issues should be provided at the earliest opportunity for further discussion and potential modifications raised that are designed to address any unforeseen defects or further improve the process</p>

4	Do you wish to raise a Workgroup Consultation Alternative Request for the Workgroup to consider?	<input type="checkbox"/> Yes (the request form can be found in the Workgroup Consultation Section) <input checked="" type="checkbox"/> No
Click or tap here to enter text.		

Specific Workgroup Consultation questions

5	<p>Do you agree with the elements of the proposed solution for CMP435? <i>Please note that the application of these elements may be different to CMP434, therefore please answer the questions in respect to CMP435.</i></p> <p>Elements 2,4,6,7,12, 15,17 and 18 are not part of the CMP435 Proposal and is only part of the CMP434 Proposal. Element 10 is proposed to be codified within the STC through modification CM096.</p> <p>Please provide rationale for your answer and any suggestions for improvement to each element?</p>	
<p>Element 1: Proposed Authority approved methodologies and ESO guidance (see Page 8-10,29)</p>		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>As the proposed methodologies are the same for both modifications, albeit the removal of references to guidance on Significant and Material Technology Change we have the same comments to make that we provided in our response to CMP 434:</p> <p>Whilst we understand the need to introduce a flexible approach to the implementation and future development of the connections process, further consideration is required in order to strike the correct balance in terms of codification. It must be understood that the Workgroup has yet to see any details of the proposed new methodologies or how these may be implemented in practice.</p> <p>Our current understanding is that the ESO licence can be (and has been) drafted to cover 'methodologies' and that this approach would provide a certain level of regulation, when exercised by the Authority under normal circumstances. By extending this concept to cover 'guidance' documents, it is unlikely that the Authority would wish to be actively involved in these matters, effectively leaving the ESO itself to exercise these duties. This would therefore effectively become a form of 'self-regulation' on behalf of the ESO. Consideration must therefore be given to the Regulatory process that should underpin the decisions that the ESO could make to such guidance documents and the potential material impacts that could result for parties involved.</p> <p>In addition, the 'light-touch' approach, as proposed by the ESO has the potential consequence of trying to bind parties to the content of guidance documentation,</p>		

<p>that will be difficult to achieve/ enforce in practice, whilst not providing any equivalent, reciprocal assurances in return.</p> <p>We have not found any evidence that this approach has been adopted previously, therefore this proposal seemingly seeks to establish a precedence, that in our opinion does not provide the usual standards of Regulatory rigour. We therefore ask that the ESO reconsider its position on this aspect of the proposed reforms</p> <p>It is our view that further consideration should be given to the potential implications for projects that will have heavily invested to reach a particular stage of development and will be working towards a specific connection date and location only to find that they have been pushed further back in the queue as a result of an ESO decision to prioritise other project(s).</p>	
<p>Element 3: Clarifying which projects go through the Primary Process (See pages 10-11,29-31)</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<p>The list of projects that the ESO envisages will be required to go through the Primary Process remains consistent with CMP 434 and we note and support that the table has been updated and references to new applications in respect of BEGAs/BELLAs have been removed, as we agree that these are specific to CMP434.</p>	
<p>Element 5: Clarifying any Primary Process differences for customer groups (See pages 11-12,32)</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<p>Firstly, we note that the title for Element 5 within the CMP 435 consultation document differs from that specified here, that is titled 'Clarifying any Gate 2 to Whole Queue differences for customer groups'. To clarify our response is based from a Gate 2 to Whole Queue perspective.</p> <p>We agree that references to the DFTC and Offshore Letter of Agreement (LoA) at Gate 1 are not a requirement for CMP 435.</p> <p>However, it must be noted that the current proposed solution for ICs and OHAs to be provided with a confirmed Connection point and date (and associated capacity reservation) at Gate 1, subject to meeting the Gate 2 criteria within the longstop period, does introduce an element of discrimination when compared to other projects. As this effectively provides these projects with more time to prepare for Gate 2 whilst holding a confirmed position that could result in other projects being pushed further down the queue.</p> <p>We would therefore ask that this is closely monitored to ensure that the proposed connection process remains fit for purpose for all connection applications and that it does not introduce any market or competition distortions.</p>	
<p>Element 8: Longstop Date for Gate 1 Agreements (See pages 12-13, 32-33)</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

<p>We support the proposed Longstop Date and the added clarification for both existing connection contracts and Embedded Generators that has been included for CMP 435.</p> <p>We believe that the time limit from Gate 1 acceptance to Gate 2 offer acceptance will ensure that viable projects are progressed, whilst clearly identifying those that are not. We ask that this period is regularly reviewed to ensure that it remains appropriate.</p>	
<p>Element 9: Project Designation (See pages 14-15, 33-34)</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
<p>Our current view on Element 9 remains the same as that for CMP 434 - We acknowledge that the ESO has stated that they envisage that Project Designation is not expected to be frequently used. However, it is difficult to see how many relevant new applications may emerge, particularly as a result of potential new policies that the Government may progress, that could fall within the proposed criteria. This taken together with the ESO's increased powers and intention not to codify this aspect of the connection reform makes this a difficult question to answer. For example, under certain circumstances this approach could adversely affect genuine projects that are looking to connect at the earliest opportunity through no fault of their own. Therefore, currently and on balance we do not support this element. We do, however, support the requirement that these projects must conform to the new Primary Process as this will ensure that there remains some form of control.</p>	
<p>Element 11: Setting out the criteria for demonstrating Gate 2 has been achieved and setting out the obligations imposed once Gate 2 has been achieved. (See pages 16-21, 34-39)</p>	<p><input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p>We agree with and support the proposal to relax the application of Option Agreements providing that there is evidence that Gate 2 has been met and that more advanced projects already meeting (or exceeding) the M1 Milestone are not required to meet the minimum option requirements. This pragmatic approach should ensure that sufficiently advanced projects in the current contracted background can progress at pace to achieve their contracted connection date and location.</p>	
<p>Element 13: Gate 2 Criteria Evidence Assessment (See pages 22-23, 39-40)</p>	<p><input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
<p>As the content of the proposed Gate 2 Criteria methodology that will contain the details as to how the criteria will be assessed has not yet been seen, we are not able to fully comment on this Element, at this time.</p> <p>We do however support the proposed criteria that will need to be met as part of the Gate 2 application process. We await the drafting of the ESO template that may provide some further insight into the assessment process itself. The additional flexibility of providing advanced projects with the ability to request an earlier connection date will not only benefit those projects but will also test the Gate 2 queue management process itself. We ask that the ESO keeps the wider industry informed as to the impacts of this aspect, should this element be progressed.</p>	

	Element 14: Gate 2 Offer and Project Site Location Change (See pages 23-24, 40-41)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	<p>We support the proposed approach for managing the potential need for the ESO to issue a new site location for the two possible situations, as outlined within the consultation document itself. We believe that this is a pragmatic approach to dealing with these situations. We do however note that the proposed 12-month period for Developers to address an issue of site relocation may not be sufficient, in all cases.</p> <p>Whilst not necessarily specific to CMP435, we suggest that the ESO considers the various factors that could result in the need for a site re-location at a later date and ensure that these are clearly communicated in order to inform developers at an earlier stage in the process.</p>	
	Element 16: Introducing the proposed Connections Network Design Methodology (CNDM) (See pages 24-25, 41-42)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	<p>As the CNDM is to include the mechanism for how capacity is reallocated, this is an important aspect of the proposed reforms. The Workgroup has not seen the content of the proposed methodology or has been able to establish a view as to how it would work in practice. Taken together with the fact that the ESO proposes that this will not be codified, we cannot currently support this element.</p>	
	Element 19: Contractual changes (See pages 26-28, 43-46)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	<p>The proposed approach to managing contractual changes based on the four distinct groups seems a sensible approach and applies a level of clarity, consistency and pragmatism.</p>	
	Element 20: Cut Over arrangements (See page 28, 47)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
	<p>We agree with and support the proposed cut-over arrangements.</p>	
6	<p>Are there any elements of the proposed CMP435 solution - as per Q5 - which you believe are not appropriate to include when you consider how to most effectively implement TMO4+ to projects in the existing contracted background (as opposed to the process for new applicants via CMP434)?</p> <p>If yes, please provide supporting justification.</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	<p>Click or tap here to enter text.</p>	
7	<p>In relation to Q6, are there any features which you believe are missing in the proposed CMP435 solution that would more effectively facilitate implementation of TMO4+ to the existing contracted background.</p> <p>If yes, please provide details and justification.</p>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
	<p>Click or tap here to enter text.</p>	

8	Do you believe any groups of projects should be exempt from the scope of CMP435 or from some elements of the proposed solution? If so, please advise on which groups and elements and provide rationale to why	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<p>The purpose of the proposed Connection Reforms is to better manage the current connection queue. This cannot be readily achieved, if at the first opportunity exemptions are made, as this will undermine the whole process, move away from the stated ACO benefits and potentially introduce discrimination and market distortion.</p>		
9	Do you believe that the proposed solution could duly or unduly discriminate against any particular types of projects? If so, do you believe this is justified?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<p>See responses above, in particular Elements 3, 5 and 9</p> <p>As the proposed new Primary Process introduces different paths to connection for different projects there will always be the possibility of introducing some form of discrimination.</p> <p>The justification for any discrimination remains to be seen and should form an integral part of the monitoring and review process that the ESO and wider industry will need to progress.</p>		